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Administration of justice at the United Nations

Activities of the Ombudsman

Report of the Secretary-General**

Summary

The General Assembly, in its resolution 59/283, entitled "Administration of justice at the United Nations", having stressed the importance of the Office of the Ombudsman as the primary means of informal dispute resolution, requested the Secretary-General to submit, in the context of his annual report on the administration of justice in the Secretariat, information on the activities of the Ombudsman, including general statistical information and information on trends, and comments on policies, procedures and practices that had come to the attention of the Ombudsman.

The present report covers the operations of the Office of the Ombudsman for the period from 1 August 2007 to 31 July 2008.

* A/63/150 and Corr.1.
** The submission of the report has been timed to coincide with the end of the reporting period

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I. Introduction

1. This is the fourth report of the Secretary-General to the General Assembly on the activities of the United Nations Ombudsman (the three previous reports are contained in A/60/376, A/61/524 and A/62/311). In paragraph 22 of its resolution 59/283, the Assembly requested the Secretary-General to submit, in the context of his annual report on the administration of justice in the Secretariat, information on the activities of the Ombudsman, including general statistical information and information on trends, and comments on policies, procedures and practices that had come to the attention of the Ombudsman.

2. The present report covers the operations of the Office during the period from 1 August 2007 to 31 July 2008 and provides an overview of transitional measures currently being developed with respect to the establishment of a single integrated and decentralized office, as mandated by the General Assembly in its resolution 62/228. The report also makes observations on systemic issues, based on the cases dealt with by the Office of the Ombudsman during the reporting period.

3. The Ombudsman reports regularly to the Secretary-General on the activities of the Office and raises relevant issues with management and staff, when deemed appropriate, to facilitate conflict resolution and make recommendations for changes in policies and practices.

II. Operations of the Office

A. General principles

4. While the existing terms of reference of the Office are currently being revised to incorporate the new functions of the Office, including its expanded mandate to serve all staff of the United Nations Secretariat, funds and programmes (see resolution 62/228), it is anticipated that the core guiding principles of the Office will remain as set out below:

(a) *Working principles.* The Ombudsman is independent of all United Nations organs and officials. The Ombudsman, as a designated neutral, has the responsibility of maintaining strict confidentiality concerning matters that are brought to his or her attention. The Ombudsman does not keep records for the United Nations or any other party and does not disclose information about individual cases or visits from staff members. The Ombudsman cannot be compelled by any United Nations official to testify about concerns that are brought to his or her attention. The Ombudsman does not have decision-making powers, but advises and makes suggestions or recommendations, as appropriate, on actions needed to settle conflicts, taking into account the rights and obligations existing between the Organization and the staff member, and the equity of the situation;

(b) *Reporting line and access to the Secretary-General.* The Ombudsman has direct access to the Secretary-General, as needed, for the performance of his or her functions, reports regularly to the Secretary-General on his or her activities and can comment on policies, procedures and practices that have come to his or her attention;

(c) *Access to records*. The Ombudsman has access to all records concerning staff, except medical records;

(d) *Access to the Ombudsman*. All staff members have voluntary access to the Ombudsman. No person who brings a matter to his or her attention shall be subject to reprisals because of such action. The Ombudsman does not review cases that are already in the formal process.

B. Appointment of a new Ombudsman

5. The newly appointed United Nations Ombudsman, Johnston Barkat of the United States of America, began his five-year term on 21 April 2008. An expert in mediation and conflict resolution, with an emphasis on organizational and cross-cultural negotiation, Mr. Barkat had previously worked with the United Nations as a negotiations instructor, a consultant on ombudsman programmes and an adviser on reforms to the system of administration of justice. For the past 11 years, he has served as the Ombudsman at Pace University, New York. He has also taught conflict resolution and mediation at the International Center for Cooperation and Conflict Resolution at Columbia University, New York, and has served as an instructor of management at various other colleges and graduate schools in the United States.

6. The first United Nations Ombudsman was M. Patricia Durrant, who served one non-renewable term of five years, which expired on 14 July 2007. Nora Galer headed the Office of the Ombudsman as Officer-in-Charge from 15 July 2007 to 20 April 2008.

7. In an effort to attract the widest possible pool of candidates for assessment and selection, the Secretary-General wrote to Member States and relevant professional associations soliciting nominations for the position of United Nations Ombudsman. A broadcast was also posted on the United Nations Intranet encouraging interested staff to apply for the position.

8. In selecting the new Ombudsman, the Secretary-General followed the recommendations put forward by the Redesign Panel on the United Nations system of administration of justice, which were subsequently approved by the General Assembly in paragraph 29 of its resolution 62/228; a selection committee consisting of staff and management representatives as well as outside ombudsmen was established. The Committee was tasked with the review of all applications received by the Office of the Secretary-General, the establishment of a shortlist of candidates to be interviewed and the formulation of recommendations to the Secretary-General for consideration.

III. Outreach

9. The Office continued its outreach programme during the reporting period, with a special focus on raising awareness about the restructuring of the Office and the appointment of the new Ombudsman. The Office placed emphasis on liaising with other ombudsman organizations, such as the Ombudsmen and Mediators of the United Nations system and related international organizations and the International Ombudsman Association. Exchanges with those Organizations have enabled the

Office not only to explore others' best practices but also to promote the role of the United Nations Ombudsman externally.

A. Internal outreach

10. In its communications with the constituency at large, the Office has taken a multifaceted approach aimed at responding appropriately to the diverse needs of the various audiences inside the Organization.

11. Efforts are made to ensure that all incoming staff are informed about the existence and the role of the Office of the Ombudsman. The Office participated in all induction courses held by the Staff Development Service of the Office for Human Resources Management and in other training courses, as invited. To complement oral presentations, printed information kits about the Office were distributed on those occasions.

12. In addition, jointly with the Integrated Training Service of the Department of Peacekeeping Operations, the Office started to explore ways to more precisely target information about the role of the Ombudsman to peacekeeping personnel and to incorporate it into the induction programmes for incoming personnel that are held regularly at the United Nations Logistics Base in Brindisi, Italy.

13. Throughout their employment with the United Nations, staff have easy access to information about the Office of the Ombudsman in electronic or printed form, as described below, as well as through personal contact with representatives of the Office of the Ombudsman. At regular intervals, representatives of the Office meet with various groups of staff to reinforce awareness of the functions of the Office and of the services that are available, while emphasizing the advantages of the informal dispute-resolution process. In addition to the special efforts made to stress the zero-barrier policy of the Ombudsman, the Office highlights the fact that its role is not limited solely to helping staff resolve conflicts but also includes empowering staff to deal with conflicts effectively throughout their United Nations career. The Office has started to develop a comprehensive plan that includes the publication of relevant articles, for instance on iSeek, the internal communications forum of the United Nations, and its new website, so as to further increase the competence of staff in dealing with conflict.

14. Recognizing the importance of stakeholders in the communications process, the Ombudsman and his staff continuously seek to engage in dialogue with the various constituencies in the Organization. This includes frequent exchanges with staff representatives and management aimed at raising awareness of the role of the Ombudsman. For example, the Ombudsman participated in fruitful exchanges with management and staff at key meetings and briefed participants on the activities of the Office. Such activities have included participation in the twenty-ninth session of the Staff-Management Coordination Committee (23 June 2008), the Senior Leadership Induction Programme of the Department of Peacekeeping Operations (23 July 2008), the Managers' Forum held by the Department of Management (23 July 2008), as well as the meeting of field staff representatives in Brindisi (8 July 2008) and the seventh meeting of chiefs of human resources at offices away from Headquarters (23 May 2008).

B. External outreach

15. Continued cooperation with other professional ombudsman organizations during the reporting period enabled the Office to share experiences with fellow practitioners and to draw on their best practices. The main forums for such exchanges are the annual conferences of the Ombudsmen and Mediators of the United Nations system and related international organizations and the International Ombudsman Association, which are attended by representatives of the Office.

16. The seventh conference of the Ombudsmen and Mediators of the United Nations system and related international organizations, held from 16 to 19 July in Washington, D.C., was hosted by the Ombudsman of the International Monetary Fund and attended by the Ombudsmen and Mediators of the World Bank, the Inter-American Development Bank, the African Development Bank, the Office of the United Nations High Commissioner for Refugees, the International Committee of the Red Cross, the United Nations Educational, Scientific and Cultural Organization, the International Civil Aviation Organization, the Pan American Health Organization, the International Trade Centre (United Nations Conference on Trade and Development/World Trade Organization), the World Health Organization, the International Labour Organization and the World Food Programme. At the conference, the Ombudsman made a presentation on the newly integrated, decentralized and unified Office of the United Nations Ombudsman. The Ombudsmen and Mediators of United Nations-related organizations indicated that there was a need for regular updates on the development of and challenges faced by the Office of the Ombudsman. Further presentations and discussions focused on the harmonization of reporting categories, staff-management relations, the promotion of the Ombudsman function, the conflict-resolution systems of other organizations, and the role of the Ombudsman in change management and succession planning.

17. Representatives of the Office also attended the annual conference of the International Ombudsman Association, entitled "Making a difference: the Ombudsman impact", held in Boston, from 13 to 16 April 2008. The conference proved to be a useful forum for promoting the integrated Office and for seeking exchanges with fellow Ombudsmen from the corporate and non-profit sectors so as to discuss practices and common standards and procedures related to ombudsman work and mediation, in particular the design of effective conflict-resolution systems in a complex organizational environment. Other subjects discussed included the concept of conflict coaching, ombudsman accountability, assessment of and response to imminent risk in ombudsman work, conflict-resolution challenges in multicultural contexts, and measuring and using client feedback.

C. Printed and electronic information materials

18. The Office continued to use its established printed and electronic communications tools to accomplish its outreach objectives. Brochures, leaflets and conflict-management cards in English and French were frequently circulated to offices away from Headquarters and field missions. The website of the Office of the Ombudsman remained the gateway to information for users of the Office. It was continuously updated with relevant information, such as the annual report and information, in all six United Nations languages, about the appointment of the new Ombudsman. Furthermore, the contents of the Office's information kit designed for

distribution to visitors and at training courses was reviewed and updated. Presentation material was revised to reflect the integration and decentralization of the Office, in an effort to better cater to its expanded and diversified constituency. A balanced mix of printed and electronic information material has proved over the years to be instrumental in ensuring that United Nations staff, regardless of their location, know of the Office of the Ombudsman and how to access the services it provides.

19. With a view to the establishment of the integrated Office on 1 January 2008, the Office, early on in the reporting period launched a comprehensive assessment of its outreach material and of its overall communications strategy to see how it could best be adapted to the changing needs of the Office. Subsequently, it was concluded that, building on best practices, the expanded constituency of the integrated Office would be best served by a single communications strategy, including a revised set of communication tools.

D. Field visits

20. During the reporting period, representatives of the United Nations Office of the Ombudsman visited the United Nations Offices at Vienna and Geneva, as well as the peacekeeping missions in Côte d'Ivoire, Timor-Leste and the United Nations Logistics Base in Italy. Such field visits constitute an essential element of the Office's outreach programme and serve a threefold purpose: (a) to receive first-hand information on recurring issues on the ground and to discuss them with senior management; (b) to raise awareness about the function of the Office of the Ombudsman among all staff; and (c) to receive individual clients in person. The physical presence of members of the Office at duty stations away from Headquarters continues to be an effective instrument in the implementation of the zero-barrier policy of the Office and helps to resolve conflicts efficiently.

E. Training

21. Ongoing efforts are being made to train and upgrade the skills of all staff, including in terms of hands-on participation in mediation activities. Staff continue to be trained in both basic and advanced ombudsman skills, while priority has been given to additional training that will equip them to handle the new types of issues and services that will arise from the expanded mandate of the Office, which will now encompass the staff of the funds and programmes and include the new Mediation Division.

22. Most of the staff of the Office have attended courses and are trained in employment law mediation to support the new Mediation Division and to act as a pool of readily available resources to be deployed to the regional branches if and when mediation services are required in those regions as part of the services of the regional branches.

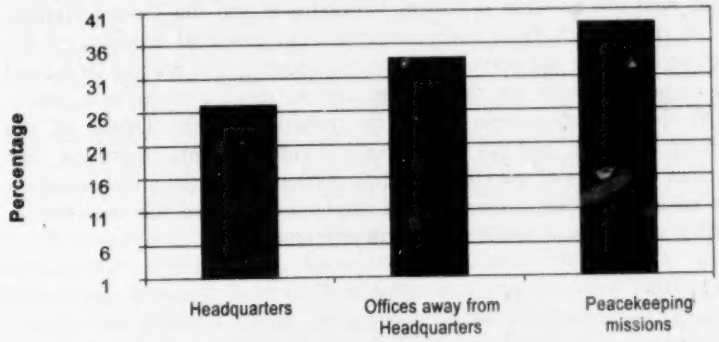
IV. Statistical information on cases and issues and analysis of data

A. General information

23. During the reporting period, from 1 August 2007 to 31 July 2008, 670 new cases were opened. An average of nearly 56 new cases were opened each month. This figure shows that informal resolution is increasingly becoming a recognized tool for conflict resolution in the Organization. During the reporting period, pending the appointment of the new Ombudsman, full ombudsman and mediation services continued to be provided by the Office. During the period under review, men initiating cases outnumbered women 52 per cent to 47 per cent, while group cases constituted the remaining 1 per cent.

B. Data analysis

Figure I
Geographical distribution of cases
(1 August 2007-31 July 2008)



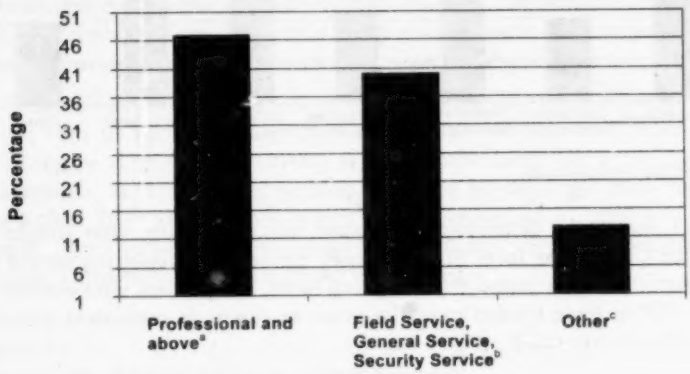
Source: Office of the Ombudsman.

24. Figure I shows the geographical distribution of cases during the reporting period. It indicates the percentages of cases coming from each of the three main locations (United Nations Headquarters, offices away from Headquarters and peacekeeping missions). Cases from Headquarters represent only 27 per cent of the whole, while almost three fourths of those who contacted the Office were located outside New York. Cases from offices away from Headquarters accounted for 34 per cent of the total number of cases, and cases from peacekeeping missions 39 per cent.

25. Looking at the current geographical distribution of cases and the estimated population of staff members, it can be seen that certain locations are overrepresented. Headquarters generates 27 per cent of cases, although it represents only 19 per cent of the total population of 34,500 staff members (see A/62/294, table 1). Similarly, a third of the cases come from offices away from Headquarters, which constitute only 27 per cent of the total population. On the other hand, peacekeeping missions are underrepresented, with 39 per cent of cases coming from 54 per cent of the total population. As the new regional branches will provide

greater access to ombudsman and mediation services, an increase in the percentage of visitors located outside New York is expected once those regional Ombudsmen are fully deployed.

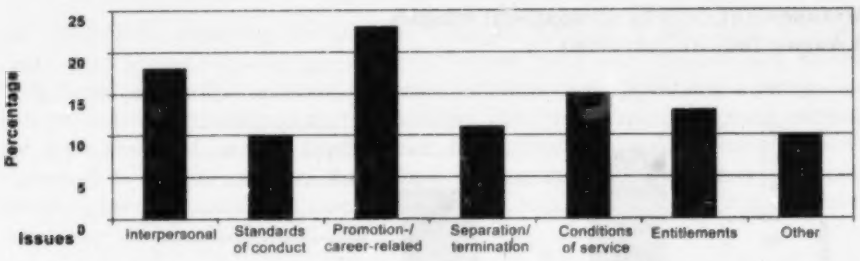
Figure II
Breakdown of cases by occupational category
(1 August 2007-31 July 2008)



Source: Office of the Ombudsman.
[a] Includes Professional and project staff, Director and above.
[b] Includes Field Service, General Service, Security Service and Trades and Crafts.
[c] Includes national staff, retirees, former staff, interns, consultants and contractors.

26. The breakdown of cases presented in figure II shows that approximately 47 per cent of cases opened during the reporting period were initiated by staff members from the occupational category "Professional and above". This category represents only 30 per cent of the total constituency (approximately 10,000 staff of approximately 34,500 United Nations staff members served by the Office). The second-largest group, which comprises the Field Service, General Service and related categories, accounted for 40 per cent of the cases. That is more or less in line with its percentage of the overall population (approximately 12,000 staff members, or 35 per cent). The third category, "Other", constituted 13 per cent of the cases. This category includes national staff, who initiated approximately 6 per cent of the cases brought to the attention of the Ombudsman; they constitute a group of approximately 12,000 persons, amounting to almost 35 per cent of the total population. Over the years, since inception, coverage of that category has been a concern for the Ombudsman. Some improvement has been achieved through intensive outreach efforts and extensive travel to field locations. The deployment of Ombudsmen in two major peacekeeping missions will further enhance such outreach efforts.

Figure III
Breakdown of cases by issue
(1 August 2007-31 July 2008)



Source: Office of the Ombudsman.

27. Figure III shows the distribution of issues raised by those who sought the assistance of the Office. The level of consistency between the reporting period and the previous period must be highlighted. By and large, the persons who contact the Ombudsman's Office have tended over the years to report at consistent rates the various types of problems cited.

28. The first and most important type of issue raised by staff is promotion-/or career-related. Over the past six years, this category has consistently remained the most important, amounting to approximately 23 per cent of the total number of cases. This category includes issues related to the performance appraisal system and its impact on the careers of staff members.

29. This category also includes issues related to mobility and career development. Such cases often involve individuals who feel that their careers have plateaued and that their prospects of upward mobility are few. Some are not seeking promotion, but want to move to posts where the work is more fulfilling. The most recent report on the activities of the Ombudsman addresses systemic issues related to the staff selection system and mobility (A/62/311, paras. 41-45).

30. The category of interpersonal issues includes conflicts among colleagues and with supervisors. Such issues represent 18 per cent of the total number raised during the reporting period. The proportion of cases involving these types of issues has been relatively stable over the years. Such issues include allegations of lack of respect, threats or intimidation, lack of communication or consultation with staff, and an office environment seen as adverse or that undermines productivity. In some of the cases, an intervention (facilitated mediation, the coaching of one or all parties) by the Office of the Ombudsman has had an immediate impact on the situation.

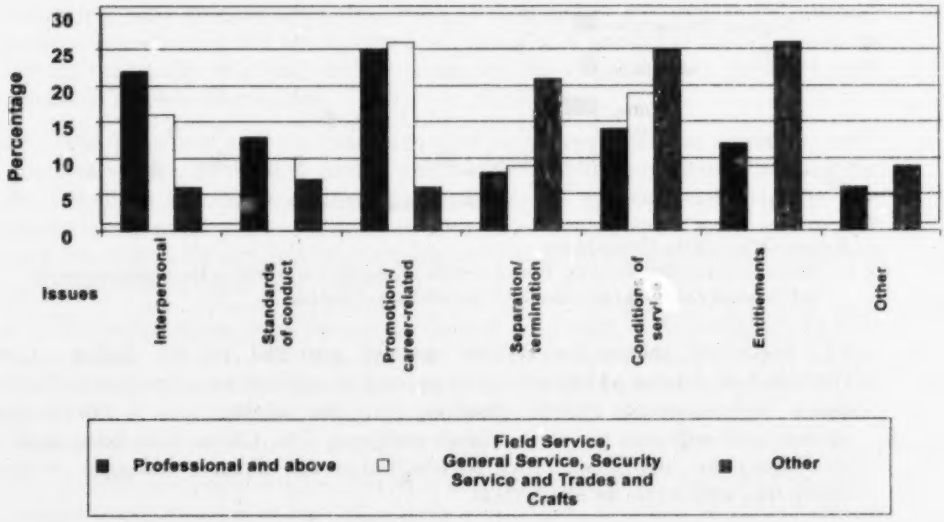
31. The conditions of service category covers a large variety of issues and situations. It includes work/life issues, issues related to selection and appointment, including salary or level at entry, change of contract, mission assignment and reassignment. During the reporting period, this category accounted for 15 per cent of the total number of cases. Pragmatic solutions and simple follow-up steps often help to resolve these kinds of cases, which deeply affect staff morale.

32. The separation and termination category includes cases involving staff from missions being downsized or whose contracts are not being renewed. It also concerns staff members whose posts have been abolished or who have remained on temporary contracts for extended periods. During the reporting period, this category constituted approximately 11 per cent of the cases. In such cases, the Ombudsman will work closely with the relevant Offices to try to identify possible solutions or explore alternative placements, as appropriate.

33. The entitlements category includes mostly cases involving administrative error or oversight in the administration of staff benefits. The trend so far has been towards a slight decrease in the number of cases falling under this category over the years, but it still accounts for 13 per cent of the total number of cases.

34. Cases related to violations of the standards of conduct remain significant, at 10 per cent of the total number of cases. They include staff reporting situations involving perceived discrimination or harassment, including sexual harassment, by a colleague or supervisor, and seeking guidance on the applicable Staff Regulations and Rules. They also include a significant percentage of staff who are subject to formal investigations or disciplinary procedures and seek guidance on how to manage a situation they often do not understand.

Figure IV
Breakdown of issues by occupational category
(1 August 2007-31 July 2008)



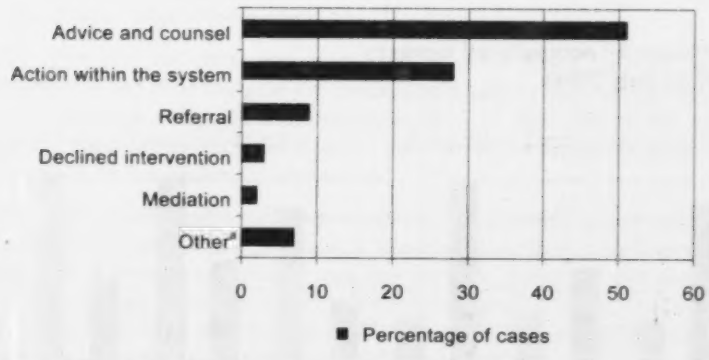
Source: Office of the Ombudsman.

35. Figure IV shows a breakdown of issues by occupational category. It indicates that the two main categories of staff members, Professional and above on the one hand, and General Service, Field Service and Security Service on the other, face similar issues. Promotion- and career-related issues, as well as interpersonal issues,

are prevalent among these categories, for the reasons mentioned in paragraphs 27 to 29. While visitors belonging to the "Other" category (including national staff, retirees, former staff, interns, consultants and contractors) have proportionally more issues related to entitlements, conditions of service, and separation and termination, national staff and United Nations Volunteers located in peacekeeping missions have relatively more issues related to conditions of service and entitlements than other visitors. The entitlements and benefits for internationally and locally recruited staff members differ significantly, resulting in frequent complaints.

36. Former staff members tend, naturally, to raise issues related to separation and termination. However, these issues are also of concern to consultants and individual contractors who contact the Ombudsman's office following the expiration of their contracts. They often inquire about the arbitration clause contained in their contracts.

Figure V
Type of service provided
(1 August 2007-31 July 2008)



Source: Office of the Ombudsman.

[a] Includes cases already in the formal system of justice, cases sent to the Ombudsman for information only and cases that staff decided not to pursue.

37. Figure V shows the various services provided by the Office of the Ombudsman. Advice and employment counsel are offered in more than half of the cases. Such assistance includes coaching staff and helping them to explore their options and solutions to work-related problems. The Office also helps staff in identifying the appropriate office to which they can direct a complaint or from which they can obtain an entitlement.

38. Direct action by the Ombudsman within the system to resolve a problem brought to the attention of the Office is undertaken in 28 per cent of the cases. Contact with a third party is made only with the authorization of the staff member concerned. After an analysis of the situation and contact with all parties concerned, the Office makes recommendations to address the issues. Staff members are referred to other offices in 9 per cent of the cases, while direct mediation is used in approximately 2 per cent of the cases. The category "Other" (7 per cent of cases)

includes cases that were already in the formal system when the Office was contacted or cases involving staff who decide not to pursue the matter. The Ombudsman declined to intervene in 3 per cent of the cases, which were not suited to informal conflict resolution or could not be referred to another office.

V. Systemic issues

39. True to its role as a catalyst for change, the Office has since its inception attached great importance to its function of defining systemic malfunctions in the Organization and, in accordance with paragraph 3.11 of its terms of reference, making recommendations for changes in policies and practices to address such malfunctions.

40. In its previous reports (A/60/376, A/61/524 and A/62/311), the Office had identified issues arising from the concerns that were brought to its attention during the reporting periods. It highlighted, inter alia, the need to protect against retaliation individuals who disclose evidence of wrongdoing, to thoroughly implement the zero-tolerance policy against discrimination, to clarify the respective roles of offices in the conflict-resolution system and to improve training for managers. It also called upon the Organization to further disseminate and raise awareness among staff about the conduct required of them as international civil servants and to consistently enforce penalties for non-compliance.

41. Previous reports called upon managers to be fully engaged in the electronic appraisal system in order to enhance its effectiveness as a tool for monitoring and improving staff performance. The need to harmonize the various contractual arrangements used by the Organization, including with respect to the conditions of service for locally recruited staff members and for internationally recruited staff members, was also highlighted.

42. The perceived lack of transparency of and other concerns about the staff selection system, the need to further improve the mobility programme in order for its objectives to be accomplished, the need to enhance staff welfare for peacekeeping personnel and the identified need to better support staff and former staff who have been exposed to psychological trauma during service were reiterated in the most recent report (see A/62/311).

43. Following up on these issues, the General Assembly, in its resolution 62/228, requested the Secretary-General to report on the specific measures taken by the Administration to address the issues raised by the Ombudsman in section IV of A/62/311, on the activities of the Ombudsman, which highlighted the systemic issues that had been identified during the first five years of the Office's operations.

44. Additional systemic issues that have been identified in the context of the cases brought to the attention of the Office during the current reporting period are set out below.

Recruitment processes

45. During the reporting period, a perception remained among staff members that recruitment is not always carried out fairly. Indeed, by far the largest percentage of

cases addressed to the Office relate to promotion and career development, with a large proportion of those involving complaints about irregularities in the selection process.

46. In such cases, human resources staff can review the recruitment exercise in question to ensure that there has been full compliance with the applicable recruitment procedures. While staff members can appeal selection decisions through the regular channels for administrative review, the process is a lengthy one and will ordinarily not serve to halt the contended selection. The absence of a quick and effective mechanism for the enforcement of compliance with the spirit and rules of the staff selection system can lead to frustration on the part of staff.

47. While internal candidates are considered on the basis of, inter alia, their existing level or grade, external candidates do not have the same limitations and can apply for a post at any grade if they fulfil the technical requirements. As a result of this disparity in treatment, external candidates can be recruited for higher-level positions than their internal counterparts, who may sometimes be more qualified.

G-to-P examination

48. General Service staff continue to raise concerns about the restrictive eligibility conditions for taking the G-to-P examination. To be eligible to take the G-to-P examination, General Service staff members are required to have served in the Organization for five years in a regular post before they can qualify to sit for the examination. G-to-P eligibility requirements therefore exclude the significant number of General Service staff who hold temporary positions.

Delays in processing staff requests

49. Delays in the processing of administrative requests from field personnel continue to cause significant frustration on the part of staff. Such delays are most evident in the processing of entry-level requests, applications for special post allowance and movement to a higher level. While it is hoped that the recent delegation of authority from the Office of Human Resources Management to the Field Personnel Division to review requests for movement to a higher level may alleviate some of the delays in this area, further consideration may also be given to expanding the dedicated capacity for handling these functions.

Staff recruited through the national competitive examination

50. The national competitive examination is a recruitment tool for the selection, through competitive examination, of highly qualified young professionals from countries that are underrepresented at the United Nations. Recruitment of junior professionals from that roster is frequently perceived as an exceedingly lengthy process. The waiting time on the roster varies from a few months to several years. During that time, the flow of information from the Organization to candidates is very limited, making career and life planning difficult. Once in the Organization, many of those recruits feel that a limited number of opportunities are offered them in the context of mobility under the managed reassignment programme and the

voluntary reassignment programme. Candidates recruited through the national competitive examination have repeatedly asked that regular P-2 posts be advertised internally. Many of them have also reported difficulties in moving from the P-2 to the P-3 level and have complained that their careers have stagnated at the mid-management level (P-3 or P-4). Thus, many feel that the Organization, after having invested much into their initial recruitment, neglects to make full use of their talents and enthusiasm for the United Nations.

51. The Office of Human Resources Management has started to address some of these issues by launching a mentoring programme and offering networking opportunities.

Harassment complaints

52. Allegations of harassment, including sexual harassment and abuse of authority, remain a concern. Many of the staff members who approach the Office still feel that there is inadequate support in place in the Organization to meet the needs of victims of harassment, and many fear retaliation if they bring complaints. As a result, many choose not to bring complaints through the formal process. With numerous field staff on six-month contracts, many victims fear that their contracts will not be renewed if they choose to come forward with this kind of complaint. The issuance of the Secretary-General's bulletin on the prohibition of discrimination, harassment, including sexual harassment, and abuse of authority (ST/SGB/2008/5) addresses that concern. However, investigation processes are still insufficiently defined and time-consuming and must be further streamlined. Steps should also be taken to ensure a prompt-response capacity with regard to complaints of sexual harassment.

VI. Transition to the new system of justice

A. New legislative elements

53. By its resolution 59/283, the General Assembly requested the Secretary-General to establish a panel of external and independent experts to review and reshape the United Nations informal justice system. The report produced by the Redesign Panel in July 2006 (A/61/205) contained far-reaching recommendations on key processes and structures within the formal and informal justice systems. The General Assembly, by its resolutions 61/261 and 62/228, established the basic framework of the new redesigned system of administration of justice at the United Nations, building on the recommendations made by the Redesign Panel. One of the key components of the overhaul was the strengthening of the capacity and reach of the Office of the United Nations Ombudsman through the creation of (a) a single, integrated and geographically decentralized Ombudsman structure that serves the Secretariat, funds and programmes; (b) a Mediation Division to provide formal mediation services; and (c) regional offices. The new configuration, which functions under the general guidance and authority of the United Nations Ombudsman, became effective on 1 January 2008.

Integration

54. As mandated by the General Assembly in paragraph 25 of its resolution 62/228, the Ombudsman offices concerned, namely, the Office of the United Nations Ombudsman, the Office of the Joint Ombudsperson (United Nations Development Programme (UNDP)/United Nations Population Fund (UNFPA)/United Nations Children's Fund (UNICEF)/United Nations Office for Project Services (UNOPS) and the Office of the Mediator of the Office of the United Nations High Commissioner for Refugees (UNHCR)), have intensified their internal efforts of coordination and cooperation with a view to enhancing the complementarity of their roles and services.

Creation of regional branches

55. In accordance with paragraph 26 of General Assembly resolution 62/228, regional offices are in the process of being established in Bangkok, Geneva, Nairobi, Santiago and Vienna. Each office will be headed by a Regional Ombudsman (P-5), who will be supported by an Administrative Assistant. Regional offices have also been approved by the Assembly in the peacekeeping missions in the Democratic Republic of the Congo and the Sudan, each with one Regional Ombudsman (P-5), a Case Officer (P-3) and an Administrative Assistant.

Mediation Division

56. As outlined in the report of the Advisory Committee on Administrative and Budgetary Questions (A/62/7/Add.7 and Corr.1, para. 21) and endorsed by the General Assembly in paragraph 30 of its resolution 62/228, a Mediation Division will be established within the Office of the Ombudsman in New York to provide formal and informal mediation services to United Nations and related personnel upon referral by the Office of the Ombudsman or by order of the United Nations Dispute Tribunal.

Nomination and selection of the Ombudsman

57. In accordance with the new appointment process approved by the General Assembly (resolution 62/228, para. 29), the United Nations Ombudsman is appointed by the Secretary-General on the recommendation of a selection committee consisting of staff and management representatives, each nominated by their respective groups, as well as outside ombudsmen. The selection committee, which is set up by the Office of the Secretary-General, is expected to vet applications, establish a shortlist of candidates, participate in the interview process and make recommendations to the Secretary-General for consideration.

B. Progress under the road map for the implementation of the new system

58. The various entities constituting the integrated Office of the Ombudsman have intensified their efforts to harmonize standards and working methods, identify common interests, build synergies and work towards the development of common systems and policies for the integrated Office. A joint task force consisting of representatives from each entity has been meeting regularly since the early part of

2008 to discuss every aspect of the integration process and to agree on the way forward.

Common premises

59. The identification of common office space that would bring together staff from the Office of the United Nations Ombudsman and the Office of the Joint Ombudsperson (UNDP/UNFPA/UNICEF/UNOPS), as well as of appropriate facilities for the Mediation Division, are among the key considerations at Headquarters. The Office of the Ombudsman is working closely with officials of the capital master plan team to achieve this critical step in the integration phase, both in the short and the longer term. Of equal importance is the identification of adequate facilities overseas for the regional branches. Given the neutral, informal and independent nature of the Office, specific requirements need to be met. Efforts are under way to identify the best available options in all new locations.

Staffing

60. Following extensive consultations within the integrated Office led by the United Nations Ombudsman, generic job descriptions for the post of Regional Ombudsman and other positions in the regional branches were finalized and submitted for classification. Vacancy announcements were subsequently processed and approved for all the professional positions within those Offices. It is expected that the selection and recruitment processes will be completed by the end of 2008. In the interim period, serious consideration is being given to the deployment of experts from within and outside the Office, in an effort to help lay the groundwork for the establishment of those offices. Staff at the General Service category will be recruited locally once the regional ombudsmen have been selected and deployed to their respective areas.

Harmonization of operating procedures

61. Current efforts by the joint task force are also geared towards the harmonization of standards of practice, data-collection methodology and reporting mechanisms in accordance with professional standards. Since its inception, the Office of the United Nations Ombudsman has collaborated with the network of Ombudsmen and Mediators of the United Nations system and related international organizations on the development of common standards of practice for the establishment and operation of Ombudsman offices.

62. The definition of a common strategy and a shared identity are at the heart of ongoing efforts to build the foundations of the integrated Office. In that context, the Office of the Ombudsman intends to hold a retreat early in September 2008 in an effort to create synergy between team members and develop a common vision of the future. Furthermore, the Office intends to monitor the impact, and initiate periodic reviews, of all measures introduced in the integration phase for continuous quality control.

Data-collection methodology

63. The merger between the various Ombudsman Offices has necessitated a thorough review of the intake forms used by each Office for data collection for the purpose of developing joint reporting categories and common database systems.

Each Office had thus far used a different database to record case information for reporting purposes, utilizing, to varying degrees, the database reporting categories elaborated by the International Ombudsman Association as a standardized model. The integrated Office has developed a joint intake form that builds on the experience garnered by each entity in collecting data and that draws on the expertise of the network of Ombudsmen and Mediators of the United Nations system and related international organizations and other relevant professional associations. It is envisaged that the new data-collection methodology will allow for analysis and comparison of trends and statistics between the participating Offices as well as with other Ombudsman offices in the common system and beyond.

64. Reliance by the integrated office on shared databases and common data-collection tools will also help to identify systemic issues, cross-cutting areas and trends relating to the various constituencies in the Organization and will form an intricate part of the first joint report targeted to be issued by the integrated Office in 2009.

C. Terms of reference for the United Nations Ombudsman

65. The terms of reference of the United Nations Ombudsman, as set out in Secretary-General's bulletin ST/SGB/2002/12 of 15 October 2002, were the subject of consultations within the Staff-Management Coordination Committee during its twenty-fifth session, held from 4 to 12 October 2001.

66. In paragraph 32 (c) of its resolution 61/261, the General Assembly requested the Secretary-General to provide revised terms of reference for the Office of the Ombudsman, as appropriate, taking into account the changes mandated by the Assembly in the context of the new system of administration of justice. The Office of the Ombudsman is currently in the process of revising its terms of reference to incorporate the new elements of the reform mandated by the Assembly. These include the establishment of a single, integrated and decentralized Office of the Ombudsman that serves the Secretariat, funds and programmes; the creation of a Mediation Division to provide formal mediation services; and the establishment of regional branches overseas.

67. The review is being conducted with the help of an outside consultant, who, with input from an expert advisory board, will lay the groundwork for the development of a revised text to ensure compliance with international standards. In addition to the new elements approved by the General Assembly, the revised text will reflect the full range of ombudsman services provided by the integrated Office, both in New York and overseas. In the context of the review, the terms of reference of the Joint Ombudsperson UNDP/UNFPA/UNICEF/UNOPS and of the UNHCR Mediator will be taken into account in order to ensure harmony and consistency in the services provided by the integrated Office.

68. The revised terms of reference will be the subject of consultations within the integrated Office and with all stakeholders prior to being finalized through the promulgation of a new Secretary-General's bulletin. It is anticipated that the revised terms of reference will be submitted to the General Assembly at its resumed session in the spring of 2009.

D. Mediation Division

69. The creation of a Mediation Division is a critical element of the efforts of the General Assembly to strengthen the informal system. As envisaged by the Redesign Panel and approved by the Assembly, the Mediation Division will provide formal mediation services for the Secretariat, funds and programmes on cases referred to it by the Office of the Ombudsman or by order of the United Nations Dispute Tribunal. In addition, it will complement the informal mediation services currently being provided by the Office of the Ombudsman.

70. As approved by the General Assembly in the context of the programme budget for the biennium 2008-2009, the Mediation Division will consist of a Director of the Mediation Division (D-1), two Senior Mediators (P-5) and one Administrative Assistant. In addition, the Division will establish and maintain a list of on-call international professional mediators who would provide specialized mediation services as needed. The Division will be located in New York and will function under the authority of the United Nations Ombudsman.

71. The Mediation Division will work on cases referred to it by the Ombudsman. It will further conduct formal mediation pursuant to an order by the United Nations Dispute Tribunal. As a neutral third party, it will assist interested staff and related personnel in resolving workplace disputes by seeking to reach mutually agreeable settlements. It is expected that this will be accomplished by helping the parties identify and understand the issues, and their interests and options and by generating solutions to which both or all parties agree. Draft agreements outlining the understandings reached between the parties would be drafted as appropriate.

72. Efforts are under way to initiate the requisite administrative procedures in order to classify and advertise the planned positions. Guidelines and operating procedures are also being developed with input from an outside expert to ensure compliance with professional standards. Those guidelines will be promulgated in an administrative instruction that will also outline rules of procedure and time frames.

E. Single communications strategy

73. The Office acknowledges that an effective, well-thought-out communications strategy will be instrumental in communicating the new scope of the system of administration of justice to United Nations employees worldwide so that they can fully benefit from the strengthened informal system of conflict resolution. The unified and decentralized Office now has a larger and more diverse target audience (Secretariat, funds and programmes), requiring a new and concerted approach to reach out to them. To that effect, the Office has started to assess previous communications strategies to build on best practices when formulating a new, single approach to building awareness about the Ombudsman function among its expanded constituency.

74. As a first step, and in cooperation with the Department of Public Information, the Office has started to develop a new website that will serve as a gateway to information for staff of the Secretariat and of the funds and programmes. This new website will be available in all six United Nations languages and comply with the accessibility guidelines as required by the General Assembly.

75. In parallel, a new assortment of printed and electronic information material (brochures, posters and folders, inter alia) is being developed, with consideration being given to the needs of the seven new regional branches and the Mediation Division. In addition, plans are being made for dedicated communication measures to accompany the official launch of the regional branches.

76. To complement the activities noted above, the Office also plans a greater focus on interactive communication, including face-to-face events, to be able to better respond to the needs of United Nations staff. All of the aforementioned information and communications materials are to have a new visual identity so as to illustrate the new nature of the Office.

F. Budget and staffing

77. The General Assembly, in the budget for the biennium 2006-2007, approved the continuation of the three existing positions for the Office of the Ombudsman (1 Assistant Secretary-General, 1 D-1, 1 P-4) and the establishment of four new positions (1 P-5, 1 P-3 and 2 General Service) (see annex I). Under the support account for peacekeeping operations, posts for a Case Officer (P-4) and one General Service staff member were approved for 2004-2005 and have been renewed in successive years.

78. In the budget for the biennium 2008-2009, the General Assembly approved the continuation of the existing positions for the Office of the Ombudsman, as outlined above. The posts made available to the Office under the support account for peacekeeping operations (1 P-4 and 1 General Service) have been approved through 31 December 2008. The following positions were also approved for the new integrated Office: (a) five Regional Ombudsman positions (P-5) in Santiago, Nairobi, Geneva, Bangkok and Vienna, each supported by one General Service staff member; (b) two Regional Ombudsman positions (P-5) in the peacekeeping missions in the Democratic Republic of the Congo and the Sudan, each supported by a Case Officer (P-3) and a General Service staff member; and (c) for the Mediation Division, one Director of the Mediation Division position (D-1), two Senior Mediators (P-5) and one Administrative Assistant (General Service). One of the P-5 posts of Mediator is to be provided through the redeployment of the existing P-5 post in the Office of the Ombudsman.

79. The Office of the Joint Ombudsperson UNDP/UNFPA/UNICEF/UNOPS has a dedicated team of ombudspersons and Professional and General Service staff. The Office further relies on consultant ombudspersons and maintains specific budget lines for this purpose. The Office of the UNHCR Mediator also has a dedicated team of Professional and General Service staff.

80. It should be noted that the Office of the United Nations Ombudsman, the Office of the Joint Ombudsperson UNDP/UNFPA/UNICEF/UNOPS and the UNHCR Office of the Mediator continue to have separate budget and staffing arrangements. Different modalities of cost-sharing arrangements are currently being explored to maximize the impact of regional outposts. The staffing and budget needs of the integrated Office will be assessed periodically in order for the necessary adjustments and proposal to be reflected in future budget submissions.

G. Future reporting

81. The integrated Office intends to issue a joint report in 2009 that will provide an overview of the first year of the integrated Office's operations, including general statistical information as well as systemic and cross-cutting issues brought to the attention of the Office. The report will also draw upon the expertise acquired by the three entities in developing their individual reports in an effort to share best practices while at the same time preserving the individual characteristics of each participating organization. The three entities currently have different reporting cycles and submit their annual reports to different governing bodies. Various scenarios are currently being explored to produce the first joint report in time for submission to the relevant governing bodies.

VII. Future directions

Consistency and coherence in the expanded set-up

82. One of the priorities of the Office during the past year has been to put in place mechanisms for the functioning of the new integrated Office of the Ombudsman for the Secretariat, funds and programmes, as mandated by the General Assembly. Specific efforts under the common road map are described in section VI.B above. Following the adoption of resolution 62/228, including additional resources for the biennium, efforts have focused on the establishment of new regional branches and the Mediation Division within the integrated Office. Substantial attention will need to be directed at ensuring consistency in practices and principles within this expanded system and to continue to guarantee the same level of coherence and excellence across the internal system. Priority must be accorded to internal mechanisms aimed at ensuring that the basic principles of confidentiality, neutrality and independence are fully and coherently respected; strict evaluation and monitoring mechanisms will be included in a comprehensive evaluation plan for the next five-year period.

Clarification of roles in the informal system of justice

83. The Secretary-General issued the latest information circular on conflict resolution in the United Nations Secretariat on 23 January 2004 (ST/IC/2004/4). Since that date, the institutional landscape in that area has evolved substantially. New offices have been created, such as the Ethics Office. There is a lack of clarity and even a degree of overlap in some mandates and practices, which creates confusion and burdens the system. Greater efforts will be made to better clarify for all staff the available options and the operating principles. It is recommended that an information circular be issued immediately to explain to staff the roles of the various offices and map out the process for bringing complaints to each of the offices following the completion of the restructuring of the administration of justice system, which will introduce additional new offices to the formal justice system. This will need to be done in the context of a concerted effort with the other key parts of the system.

Mediation

84. A key component of the new justice system is the creation of a Mediation Division within the Office of the Ombudsman. In addition to the informal and confidential mediation services already available, the judges of the newly established Dispute Tribunal will have the opportunity to refer the parties to mandated mediation in the Office of the Ombudsman. The establishment of this new Division will be one of the focuses of the Office in 2009. Tasks will include selecting and staffing the new mechanism, establishing a roster of mediators with the relevant backgrounds and languages for all duty stations, devising relevant operating procedures, and communicating the availability of the Division's services and its modus operandi to all staff of the Secretariat and of the funds and programmes.

Set bases for a participatory process involving all stakeholders in the identification of systemic issues

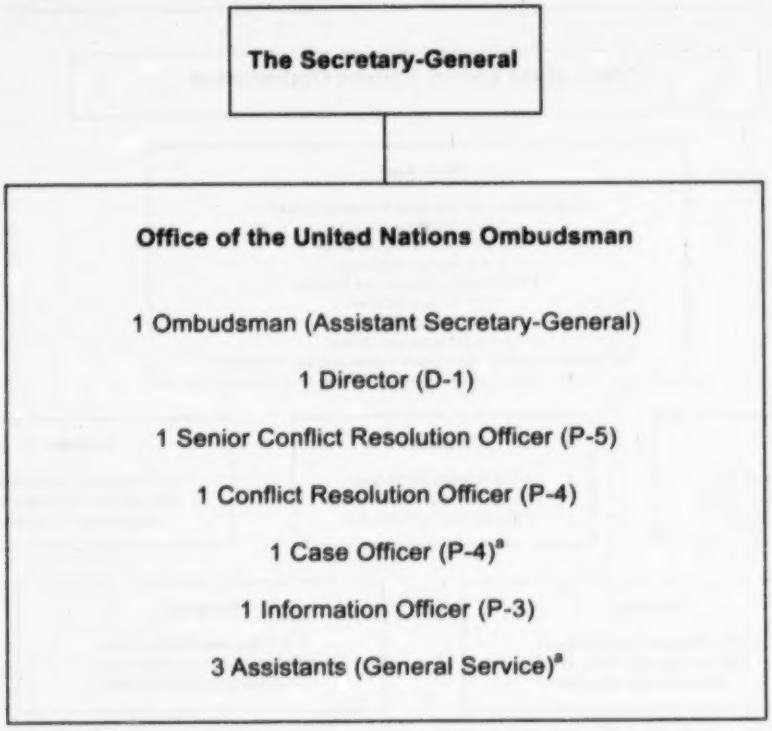
85. The identification of systemic issues and the reporting thereof to the Secretary-General is an integral part of the Ombudsman's mandate. This has been included as a crucial part of the yearly reports submitted to the General Assembly by the Secretary-General on the activities of the Ombudsman. Additional efforts will now focus on ensuring the participation of key stakeholders in the identification of such systemic issues and trends. Mechanisms will be devised to allow for the views of the staff at large from the various duty stations, visitors to the Office, managers and all other stakeholders to be reflected. A permanent dialogue will be established, mainly through electronic means, to ensure broad participation and buy-in in the context of the identification of the key systemic constraints that need to be addressed collectively.

Monitoring of confidentiality

86. One of the key operating principles of the Office of the Ombudsman is respect for the full confidentiality of the interaction between the visitor and the Office and of the identity of the visitor. The systems in place will be reviewed so as to determine the necessity of establishing further checks and balances and perhaps further ensuring that the system is monitored regularly. This will become particularly crucial as seven regional branches are established and the need for vigilance increases exponentially.

Annex I

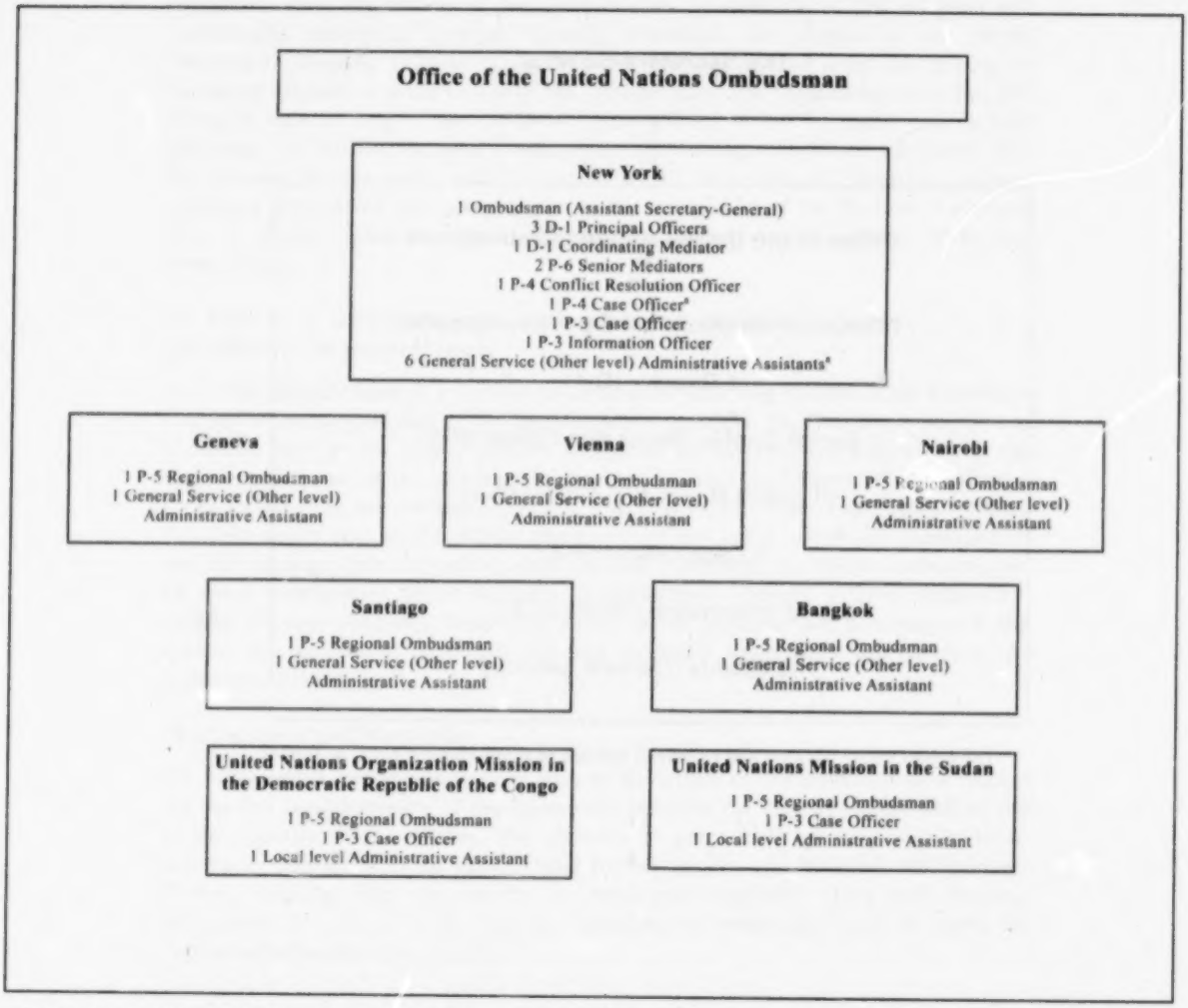
Organization chart until 31 December 2007


The Secretary-General
Office of the United Nations Ombudsman
1 Ombudsman (Assistant Secretary-General)
1 Director (D-1)
1 Senior Conflict Resolution Officer (P-5)
1 Conflict Resolution Officer (P-4)
1 Case Officer (P-4)[a]
1 Information Officer (P-3)
3 Assistants (General Service)[a]

[a] The Case Officer position and a General Service post are Support Account-funded.

Annex II

Organization chart as from 1 January 2008


Office of the United Nations Ombudsman
New York
1 Ombudsman (Assistant Secretary-General)
3 D-1 Principal Officers
1 D-1 Coordinating Mediator
2 P-6 Senior Mediators
1 P-4 Conflict Resolution Officer
1 P-4 Case Officer[a]
1 P-3 Case Officer
1 P-3 Information Officer
6 General Service (Other level) Administrative Assistants[a]
Geneva
1 P-5 Regional Ombudsman
1 General Service (Other level) Administrative Assistant
Vienna
1 P-5 Regional Ombudsman
1 General Service (Other level) Administrative Assistant
Nairobi
1 P-5 Regional Ombudsman
1 General Service (Other level) Administrative Assistant
Santiago
1 P-5 Regional Ombudsman
1 General Service (Other level) Administrative Assistant
Bangkok
1 P-5 Regional Ombudsman
1 General Service (Other level) Administrative Assistant
United Nations Organization Mission in the Democratic Republic of the Congo
1 P-5 Regional Ombudsman
1 P-3 Case Officer
1 Local level Administrative Assistant
United Nations Mission in the Sudan
1 P-5 Regional Ombudsman
1 P-3 Case Officer
1 Local level Administrative Assistant

[a] 1 P-4 Case Officer and 1 General Service staff member are funded under the Support Account until 31 December 2008.

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Item 55 (a) of the provisional agenda*
Groups of countries in special situations: Third United Nations Conference for Least Developed Countries

Outline of the modalities of the Fourth United Nations Conference on the Least Developed Countries and its preparatory process

Note by the Secretary-General

Summary

The present note is submitted pursuant to resolution 62/203, in which the General Assembly requested the Secretary-General to prepare a note during the sixty-second session of the Assembly outlining the modalities of a fourth United Nations Conference on the Least Developed Countries, including its preparatory process. The note outlines the modalities of holding the Conference, including its preparatory process, in accordance with the resolution.

* A/63/150.

08-46079 (E) 090908

I. Introduction

1. The General Assembly in its resolution 62/203 recalled paragraph 114 of the Programme of Action on holding a fourth United Nations Conference on the Least Developed Countries towards the end of the current decade, and requested the Secretary-General, in that regard, to prepare a note during the sixty-second session of the Assembly outlining the modalities of such a conference, including its preparatory process.

2. The present note outlines the modalities of holding the Fourth United Nations Conference on the Least Developed Countries, including its preparatory process, in accordance with resolution 62/203.

II. Background and mandate

3. In 1971, the international community recognized the existence of a category of countries whose distinctness lay not only in the profound poverty of their people, but also in the structural weakness of their economic, institutional and human resources, often compounded by geographical handicaps. That group of countries (then numbering 25), classified by the United Nations as least developed countries, constitute the poorest and weakest segment of the international community, and their economic and social development represent a major challenge both for them and for their development partners.

4. To respond to that challenge, the General Assembly decided to hold the First United Nations Conference on the Least Developed Countries in Paris in 1981. To continue focus on the need for the special measures for those countries, the Assembly decided to convene the Second United Nations Conference on the Least Developed Countries. Its outcome was embodied in the Paris Declaration and Programme of Action for the Least Developed Countries for the 1990s. Despite vigorous efforts by the least developed countries to implement socio-economic reforms as envisaged by the Programme of Action, those countries as a group were not able to meet any of the objectives of the Programme of Action, and their number increased from 42 in 1990 to 48 in 1997.

5. Consequently, in accordance with General Assembly resolutions 52/187 and 53/182, the Third United Nations Conference for the Least Developed Countries was held in Brussels from 14 to 20 May 2001. Its outcome was embodied in the Brussels Declaration and the Programme of Action for the Least Developed Countries for the Decade 2001-2010.

6. The Programme of Action for 2001-2010, endorsed by the General Assembly in its resolution 55/279, represents a results-oriented comprehensive poverty reduction strategy, tailored to the special needs of the least developed countries and designed as a framework for partnership between those countries and their development partners in seven interlinked areas: (a) fostering a people-centred policy framework; (b) good governance at the national and international levels; (c) building human and institutional capacities; (d) building productive capacities to make globalization work for the least developed countries; (e) enhancing the role of trade in development; (f) reducing vulnerability of protecting the environment; and (g) mobilizing financial resources.

7. The Programme covers all areas (economic, social and environmental) of development and has 10 cross-cutting priority issues: poverty eradication, gender equality, employment, governance at the national and international levels, capacity-building, sustainable development, special problems of landlocked and small island developing States, and challenges faced by least developed countries affected by conflict.

8. The overarching goal of the Programme is "to make substantial progress towards halving the proportion of people living in extreme poverty and suffering from hunger by 2015 and promote the sustainable development" of the least developed countries. The Programme of Action contains 30 internationally agreed development goals, including those contained in the Millennium Declaration.

9. The implementation of the Programme of Action is guided by the following principles: (a) an integrated approach; (b) genuine partnership; (c) country ownership; (d) market considerations; and (e) result orientation.

10. Furthermore, the Programme provided a clear implementation and monitoring mechanism at the national, regional and global levels.

11. In that context, the General Assembly at its fifty-sixth session decided to establish the Office of the High Representative for the Least Developed Countries, Landlocked Developing Countries and Small Island Developing States, with the functions recommended in the Secretary-General's report.[1]

12. In 2006, the General Assembly at its sixty-first session, held the High-level Meeting on the Mid-Term Comprehensive Global Review of the Programme of Action. The Meeting concluded that the socio-economic situation in the least developed countries remains precarious and — given the current trends — they were unlikely to achieve the objectives, goals and targets of the Programme.

III. Constraints

13. Since 2000, the least developed countries, as a group, grew by 6 per cent per year on average. However, impressive economic growth has made little dent on poverty and even deepened social disparities, especially between rural and urban areas, in those countries. Furthermore, fast population growth combined with rapid urbanization has led to a situation in which more people than ever have been seeking jobs outside agriculture while agricultural productivity has been declining. Malnutrition has been increasing, particularly in African least developed countries. Health and education indicators in many least developed countries have been improving steadily since 1990, but earlier progress on water and sanitation has not been sustained and has even been reversed in some of those countries.

14. Despite a significant increase in volume, official development assistance (ODA) as a percentage of donors' gross national income to least developed countries remains far below the 0.15-0.20 per cent target and foreign direct investment is highly concentrated in a few least developed countries rich in natural resources. Duty-free and quota-free market access has not resulted in an increase of the share of least developed countries exports and imports in world trade, which remain marginal at less than 1 per cent. Nearly 75 per cent of exports of those countries are

[1] A/56/645 and Add.1 and Add.1/Corr.1 and 2.

still primary commodities, exposing them to multiple external shocks and volatile global market prices. Due to the 100 per cent debt cancellation under the Multilateral Debt Relief initiative, debt relief delivered under the Heavily Indebted Poor Countries Initiative and stronger exports, debt service payments of least developed countries have decreased significantly but the long-term sustainability of debt burden remains a daunting challenge.

15. One least developed country (Cape Verde) graduated as of 21 December 2007 and two least developed countries will graduate from the list of those countries in 2010 (Samoa) and 2011 (Maldives). However, all graduating countries are small island developing States, extremely vulnerable in their development and highly susceptible to external shocks.

16. In the meantime, new challenges to the sustainable development of least developed countries have been also emerging: (a) high food prices, as a result of growing demand owing to population growth, high global oil prices, increased demand for bio-fuel, a shift to meat in diets of emerging economies and crop failure in major producing countries; (b) increase of the economically active age population lacking employment opportunities; (c) the impact of climate change owing to global warming, caused by the greenhouse gas emissions; (d) brain drain as a result of migration of skilled workers to developed and developing countries; (e) the threat of the avian flu; among other challenges.

17. Attaining the internationally agreed development goals, including the Millennium Development Goals and addressing the challenges of poverty reduction and sustainable development depend crucially on sustaining the progress achieved and preventing the reversal of positive trends in least developed countries, the major locus of extreme poverty in the world.

IV. Proposed substantive agenda of the Conference

18. The Conference would convene to assess the implementation of the Programme of Action for the Least Developed Countries for the Decade 2001-2010 and to formulate new strategies and an action plan for sustainable development of least developed countries in the next decade. An analysis of past performance will shed light on the most critical constraints on the effective realization of the goals of the previous programmes of action and suggest new strategies to reverse them. While the range of issues to be addressed by the Conference will be determined by a consultative process among different stakeholders, it may be useful to recall a number of constraints which are known to have limited the performance of those countries.

19. The Fourth United Nations Conference on the Least Developed Countries, inter alia, should:

(a) Assess the implementation of the Programme of Action during the first decade of the twenty-first century towards halving the proportion of people living in extreme poverty and suffering from hunger and promoting the sustainable and steady increases in gross domestic product growth rates in least developed countries;

(b) Review the implementation of international support measures, particularly in the areas of official development assistance, debt, investment and trade;

(c) Consider the formulation and adoption of appropriate national and international policies and measures for the sustainable development of the least developed countries and their progressive integration into the world economy.

20. The Fourth Conference will provide a unique opportunity: (a) to undertake the comprehensive appraisal of the implementation of the Brussels Programme; (b) to share lessons learned and best practices; (c) to identify effective international and domestic policies in the light of the outcomes of the appraisals; (d) to agree on additional international support measures in favour of least developed countries; (e) to enhance partnerships between all stakeholders (Governments, parliaments, civil society, private sector, international and regional organizations and financial institutions) of the process at all levels; (f) to reaffirm the commitment to poverty eradication and sustainable development in least developed countries; (g) to reaffirm the global commitment to address the special needs of the least developed countries made at the major United Nations conferences and summits, including the Millennium Summit and the 2005 World Summit; (h) to mobilize international support and action; and (i) to identify new and emerging challenges and opportunities for the least developed countries, and means to address them.

V. Organizational strategy

21. A starting point in charting out an organizational strategy for the Fourth United Nations Conference on the Least Developed Countries lies in the recognition and acceptance of the following premises:

(a) That the international community continues to be committed to the eradication of poverty and the improvement of the quality of lives of people in least developed countries.

(b) That, while the substantive agenda is broad, because the Conference is about the overall sustainable development of least developed countries, there is nevertheless a need to identify critical areas and set priorities and to invest efforts and resources in addressing them.

(c) That, in order to take into account the specific characteristics and problems of each least developed country within the framework of a broad agenda, a global programme of action needs to be based on country-level assessments of constraints, priorities and opportunities. For this reason, an extensive preparatory process at the country level, involving the public and private sectors and civil society, is essential to formulating a national-level comprehensive programme of action for each country. That would become the basis for developing a global programme of action to be adopted at the Conference.

(d) That the issue of resources for the implementation of the new comprehensive programme of action for the sustainable development of least developed countries is the major challenge, and that new approaches for mobilizing development finance need to be found.

VI. Preparatory process at the country, regional and global levels

22. The whole preparatory process for the Conference should be inclusive and transparent, to promote dialogue between all stakeholders (governments, civil society, particularly women groups and women non-governmental organizations, youth, the private sector, philanthropic and non-profit organizations, parliamentarians, academia, media, business leaders) of the process, establish linkages and ensure synergies at all levels and tracks of the preparatory process. To that end, various multi-stakeholder events are also highly encouraged.

A. Country-level preparations

23. National preparations will build on the existing country review processes, to avoid duplication and ensure United Nations system coordination at the country level. They will also take into account the recent stocktaking exercise in preparation for the Millennium Development Goals-based national development strategies, undertaken by most of the least developed countries, with the support of the United Nations resident coordinators, as well as the national reviews held within the framework of the annual ministerial reviews during the high-level segments of substantive sessions of the Economic and Social Council. Synergies must be established, at the country level, between the review of the implementation of the Brussels Programme and the review of the implementation of the United Nations Development Assistance Framework (UNDAF) and the poverty reduction strategy paper (PRSP), as well as between existing country review mechanisms, such as the UNDP round tables, the World Bank Consultative Groups, and others.

24. The following objectives, documentation, organizers, format and timing pertain to country-level preparations:

(a) **Objectives**: (i) in-depth and comprehensive assessment of the social, economic and environmental development of each country; (ii) evaluation of the progress of the country and its development partners on the goals, the targets and the commitments contained in the Programme of Action; (iii) thorough assessment of the effectiveness of the existing national arrangements[2] for the follow-up to, implementation of, and monitoring and reporting on the implementation of the Programme of Action; (iv) identification of the gaps, constraints and obstacles in the implementation of the Programme, as well as the country-specific needs in development; (v) formulation of additional policies and measures to eradicate poverty and achieve sustainable development; (vi) strengthening partnerships, including with parliaments, civil society and the private sector; (vii) review of the results of the international support measures, particularly in the areas of ODA, debt, investment and trade; and (viii) providing an input to the regional and global preparatory process.

(b) **Documentation**: national reports[3] of the least developed countries.

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[2] For national arrangements, see paras. 99-104 of the Programme of Action of the Least Developed Countries for the Decade 2001-2010 (A/CONF/191/13).

[3] The national report will be prepared with the assistance of the United Nations resident coordinator.

(c) **Organizer**: each least developed country, with the support of the United Nations resident coordinator and the World Bank representative.

(d) **Format**: a national forum based on the broad-based and inclusive dialogue with all stakeholders of the development process (Governments, civil society, particularly women groups and women non-governmental organizations, youth, the private sector, philanthropic and non-profit organizations, parliamentarians, academia, media, business leaders).

(e) **Timing**: end 2009/early 2010.

B. Regional preparations

25. Regional preparations should bring the regional perspective into the review process. Given their responsibility for regional integration and regional cooperation, as well as for support to the sustainable development of countries of the region and the unique mandate for the analytical, normative and operational activities, the United Nations regional commissions will take a lead role in the preparatory process. Synergy should be established, during the review process, with the global review processes such as Millennium Development Goals and regional review mechanisms, such as the Africa Peer Review mechanism for the New Partnership for Africa's Development (NEPAD).

26. The following pertain to regional preparations:

(a) **Objectives**: (i) in-depth and comprehensive assessment of the implementation of the Programme in the region; (ii) thorough assessment of the effectiveness of the existing regional arrangements[4] for the follow-up to, implementation of, and monitoring and reporting on the implementation of the Programme of Action; (iii) exchange of experience, lessons learned and best practices; (iv) identification of common problems and seeking solutions; (v) formulation of specific policies and measures for better regional integration of least developed countries; (vi) promotion of cooperation between least developed countries and other countries; (vii) promotion of policy coherence at the regional level; (viii) strengthening partnerships, including civil society and the private sector; (ix) review of the results of the international support measures, particularly in the areas of ODA, debt, investment and trade; and (x) providing an input to the global preparations.

(b) **Documentation**: national reports of the least developed countries, annotated agenda, work programme, reports of the regional commissions and reports of the governing bodies of the regional commissions.

(c) **Organizer**: under the overall coordination and guidance of the Office of the High Representative for the Least Developed Countries, Landlocked Developing Countries and Small Island Developing States, the Economic Commission for Africa for the least developed countries in Africa, the Economic Commission for Asia and the Pacific for the least developed countries in Asia and the Pacific, the Economic Commission for Western Asia for Yemen, and the Economic Commission for Latin America and the Caribbean for Haiti, in collaboration with the relevant United Nations system organizations and other relevant international and regional

[4] For regional arrangements, see paras. 105-108 of the Programme.

organizations, including UNCTAD, UNDP, the World Bank, the regional development banks and regional economic communities.

(d) **Format**: high-level meetings with the participation of all stakeholders (government, civil society, particularly women groups and women non-governmental organizations, youth, the private sector, philanthropic and non-profit organizations, parliamentarians, academia, media, business leaders).

(e) **Timing**: Spring 2010/mid-2010.

C. Global-level preparations

27. The global preparatory process will build, to the extent possible, on the reviews of other major United Nations conferences and stocktaking exercises taking place between 2008 and 2010, and their relevant outcomes. To that end, the United Nations Secretariat will map out all major reviews between 2008 and 2010 and prepare a road map, a comprehensive list of all preparatory events in the lead-up to the Fourth Conference.

28. The following pertain to the global level:

(a) **Objectives**: (i) comprehensive appraisal of the implementation of the Programme and the effectiveness of existing arrangements at the global level;[5] (ii) review of the results of the international support measures, particularly in the areas of ODA, debt, investment and trade; (iii) formulation of the appropriate additional policies and measures to achieve sustainable development of the least developed countries and their better integration into the global economy; (iv) exchange of experience, lessons learned and best practices; (v) strengthening partnerships, including civil society and the private sector; (vi) preparation of a proposal for consideration and subsequent adoption by the Conference.

(b) **Organizer**: Office of the High Representative for the Least Developed Countries, Landlocked Developing Countries and Small Island Developing States, in collaboration with the United Nations Conference on Trade and Development (UNCTAD), the Department of Economic and Social Affairs, and the United Nations Development Programme.

(c) **Documentation**: annotated agenda, national reports of the least developed countries, and reports of the regional review meetings, including their outcome documents, the comprehensive report of the Secretary-General, outcomes of the major United Nations global conferences and the outcomes of their respective reviews.

(d) **Structure**:

(i) United Nations system track: inter-agency consultative group meetings with a view to building consensus on the conceptual framework and all organizational aspects of the preparatory process and of the Conference.

(ii) Intergovernmental track: Preparatory Committee (two sessions, five days each) to undertake the comprehensive appraisal of the implementation of the Programme and prepare the proposal for the outcome document for consideration and adoption by the Conference.

[5] For global arrangements, see paras. 109-116 of the Programme.

The intergovernmental track will also include the meetings of the General Assembly sessions and the substantive sessions of the Economic and Social Council, which undertake the regular reviews of the implementation of the Programme, as well as the meetings of the governing bodies of the United Nations system and the international organizations, in particular, those of the UNCTAD Trade and Development Board and the WTO Sub-Committee on Least Developed Countries, which undertake the reviews of the implementation of the Programme in the areas of their competence, and special events. This track will also include a dialogue with the Bretton Woods institutions. The deliverables of all meetings will be made available to the Preparatory Committee.

(iii) Civil society track: a series of events with civil society and the private sector, including the Investment Forum and the Business Advisory Council, the meeting of the Inter-Parliamentary Union, as well as multi-stakeholder events, to explore and initiate innovative solutions to the problems of the Least Developed Countries, as well as to strengthen partnerships between Governments, civil society and the private sector. Summaries of the events will also be made available to the Preparatory Committee.

(e) **Format**: senior level.

(f) **Timing**: second half of 2010 — early-2011.

VII. Conference

29. The following are foreseen for the Conference:

(a) **Objective**: to undertake a comprehensive appraisal of the implementation of the Programme and formulate and adopt appropriate national and international policies and measures for the sustainable development of the least developed countries and their progressive integration into the world economy, and address new and emerging challenges and opportunities.

(b) **Intergovernmental track**:

(i) Plenary meetings. The inaugural meeting on the morning of the first day followed by the general debates. The general debates begin immediately after the inaugural meeting and will continue on the second day. The general debate will be followed by six interactive thematic discussions. The closing meeting will take place in the afternoon on the final day of the Conference, at which it will consider and adopt the proposal of the Committee of the Whole.

(ii) The Committee of the Whole will begin its work on the second day and end its work on a day before the closing of the Conference. It will examine and finalize the draft proposal of the Preparatory Committee for adoption by the Conference.

(iii) Documentation: (i) annotated agenda; (ii) rules of procedure; (iii) national reports of the least developed countries; (iv) reports of the regional high-level meetings; (v) reports of United Nations system bodies and international organizations; (vi) summaries of thematic discussions; (vii) summaries of the dialogue with the Bretton Woods institutions, the Inter-Parliamentary Union, the Investment Forum and the Business Advisory

Council; (viii) summary of the Civil Society Forum; (ix) report of the Preparatory Committee; (x) report of the Credentials Committee; (xi) report of the Committee of the Whole; (xii) summary of the Non-Governmental Organization forum; (xiii) issue papers; (xiv) the comprehensive report of the Secretary-General; and (xv) outcomes of the major United Nations global conferences and the outcomes of their respective reviews.

(c) **Civil society track**: The Civil Society Forum will be organized for the civil society, non-governmental organizations and the private sector and run parallel to the Committee of the Whole. It will consist of a series of round tables with a view to achieving consensus among all stakeholders on the outcome of the Conference. A separate private sector high-level round table leading to the announcement of new partnerships and a declaration of commitment from non-State actors towards reaching the Millennium Development Goals will also be organized. The discussion will be summarized submitted to the Secretary-General of the Conference, for inclusion in its report. The summary will also provide the basis of media and advocacy campaigns, and to global processes around the Millennium Development Goals.

(d) **Format of the Conference**: high level.

(e) **Timing**: mid-2011.

(f) **Duration**: 7 days.

(g) **Venue**: The Government of Turkey has offered to host the Conference in Istanbul, and the Government of Austria has offered to host the Conference in Vienna.

VIII. Recommendations and conclusions

30. **In order to launch timely preparations, the General Assembly should decide at its sixty-third session on convening the Fourth United Nations Conference on the Least Developed Countries, including its specific dates and venue.**

31. **I have decided, in accordance with the mandate given by the General Assembly in its resolutions 56/227 and 57/270 B, that the United Nations Office of the High Representative for the Least Developed Countries, Landlocked Developing Countries and Small Island Developing States will serve as the focal point for the preparatory process for the Fourth United Nations Conference on the Least Developed Countries.**

32. **I will designate the Secretary-General of the Conference upon the relevant decision by the General Assembly on convening the conference.**

United Nations A/63/285

General Assembly

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Sixty-third session
Item 126 of the provisional agenda*
Human resources management

Recruitment and staffing in the United Nations: strategy going forward

Report of the Secretary-General

Summary

In the light of the priority that the Secretary-General places on improving and modernizing recruitment and staffing in the Organization, and pursuant to the request by the General Assembly in its resolution 61/244 to further elaborate the use of pre-screened rosters, the present report provides the Assembly with information on progress made in advancing the reform proposals on recruitment and staffing presented in his reports "Investing in people" (A/61/255) and "Human resources management reform: recruitment and staffing" (A/61/822).

* A/63/150.

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I. Introduction

1. In 2007, in his address to the General Assembly, "A stronger United Nations for a better world, the Secretary-General set out a compelling vision for the reform of the management of the Organization in order to meet its increasingly complex and interrelated mandates. He stated:

> "We need to think freshly about how we do our work. Our main themes should be to simplify, rationalize and delegate. To deliver on the world's high expectations for us, we need to be faster, more flexible and mobile. We need to pay less attention to rhetoric, and more attention to results — to getting things done. I place a very high priority on implementing the management reforms you have previously approved to promote greater transparency, accountability and efficiency. To be more responsive and nimble in meeting the changing demands of today's global environment, we must better manage United Nations human resources, our most vital asset. We need an internal climate change at the United Nations. We must build a more skilled and mobile workforce."

2. A human resources management framework that supports an independent international civil service with the highest standards of performance and accountability is one of the cornerstones of the Secretary-General's vision. The goal is to build a multi-skilled, versatile and mobile staff to fulfil the Organization's complex and interrelated mandates. To respond to the changing demands placed on it by the Member States, the Organization itself has evolved from being largely Headquarters-based to one which has over half its staff in numerous field locations performing tasks of increasing complexity and scope over a broad range of functions. Recent trends point to a steady increase in staff numbers, mainly due to the expansion of mandates in the field. In 2006, there were over 31,000 civilian staff members of all types in all locations. In 2007, this number increased to over 36,500 and by June 2008 the number of civilian staff had reached almost 40,000. This represents a 25 per cent increase in only two years. There is a concomitant increase in the number of experienced staff who will be retiring in the next four years, in particular at the D-1 and higher levels, with over 40 per cent of this group retiring by 2012.

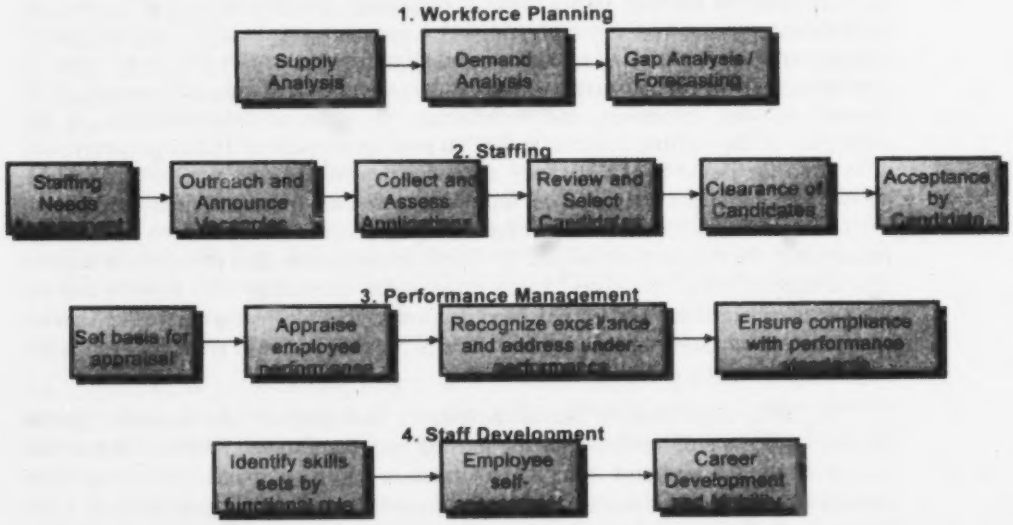
3. Meeting the challenges of attracting, developing and retaining motivated staff of the highest calibre and dealing with the upcoming wave of retirements requires new strategies and more streamlined and efficient processes, technological infrastructure and economies of scale in carrying out administrative processes. Key to addressing the challenges are the Secretary-General's proposals on the introduction of one contract and the harmonization of conditions of service throughout the United Nations system. In moving forward with a new construct for staffing and recruitment, there is need to integrate the various policies and processes that currently underpin the management of talent through strategic workforce planning, recruitment and targeted outreach, staffing, career development and performance management. Such an integrated approach is the basis for the new talent management framework, introduced in the report of the Secretary-General, "Investing in people" (A/61/255).

4. An important goal of the integrated approach is to ensure that there is always a pool of highly qualified and motivated individuals available to pursue the

Organization's mandates and to better serve the needs of the Member States. The proposed staffing system will be designed to ensure that the paramount consideration in the employment of the staff is to secure the highest standards of efficiency, competency and integrity, as required by Article 101, paragraph 3, of the Charter of the United Nations, while ensuring due regard for geographical representation and gender balance. The Secretary-General views the introduction of a talent management framework, of which rosters are an important element, as a crucial step in order to speed up recruitment and ensure that the United Nations is better equipped to meet current and future staffing needs, while increasing the opportunities for career development for staff. The target is to reduce the time taken to fill vacancies from the current average of 162 days (previously 174) to 100 days once all the elements of the framework are in place. Two of the four elements of the talent management framework (workforce planning and staffing and recruitment) and the use of rosters for delivering better results are described below.

II. Strategic workforce planning

Figure 1
Talent management framework



5. The first element in the new talent management framework is strategic workforce planning, which enables the Organization to undertake proactive efforts to meet its current and future needs. It provides managers with the foundation for projecting staffing trends based on the Organization's mandates, strategic plans, budgetary resources, skills and desired competencies. While several departments have been engaged in the past in workforce planning exercises, including the Department of Peacekeeping Operations and the Department of Field Support, such exercises have not been systematically carried out. In 2008, the Secretary-General requested heads of all departments to engage in strategic workforce planning with the aim of identifying core skills for succession planning, identification and analysis

of gaps in the workforce, supply and demand analysis, planning for succession and addressing the high rate of upcoming retirements in a more systematic and cross-organizational manner.

6. Workforce planning, which seeks to establish a multi-year forecast of the staff resources that would be needed to support current and new mandates in the short and medium terms, captures the strategic direction of staffing of the Organization. Such a forecast would take account of projected retirements, average time in post in a given period and a projection of the workforce demand for the same period. Supply and demand analyses will determine likely gaps in workforce availability. In addition, it will facilitate more proactive outreach efforts to ensure the availability of a pool of qualified candidates of appropriate diversity in terms of geographical representation and gender, including occupational groups, and will thus support the effective implementation and management of rosters. It is expected that workforce planning will support the staffing of the Organization; help address the high attrition rates, including through retirements and turnover; support the enhancement of staff skills to meet anticipated needs; and enable more targeted outreach exercises.

A. Meeting organizational staffing needs

7. The second element in the talent management framework is staffing through recruitment and targeted outreach and roster management. In 2007, approximately 5,000 people were recruited to serve in the Organization worldwide on all types of contracts, a level of recruitment that is increasingly difficult to manage given current policies, processes and technology. In spite of improvements in the efficiency of the staffing process, in 2007 it took an average of 162 days (previously 174) from the issuance of a vacancy announcement to the selection of a candidate. These data highlight the need to introduce new and more efficient methods of recruitment, in particular a roster-based staffing process. Work started in 2007 to: (a) develop the business processes for talent management; and (b) select a support tool to support those processes. A new information technology (IT) support tool for the talent management system has been acquired. This tool is crucial to the success of roster-based staffing as it will integrate the various elements of talent management set out in figure 1.

8. In 2007, the Office of Human Resources Management spearheaded a global business process redesign exercise for staffing and recruitment processes. One of the outcomes of the exercise was a reaffirmation by participants, including from participants from offices away from Headquarters and the Department of Field Support, on the suitability of a roster-based approach to addressing the staffing needs of the Organization. Participants in the Staff-Management Coordination Committee meeting, held in New York in June 2008, also supported recommendations for roster-based selection. Staff pointed out that to make the roster system more transparent and effective, it was important to provide rostered candidates with feedback on their status in the recruitment process. The new talent management system is designed to address those concerns.

B. Benefits of using pre-screened rosters

9. The General Assembly, in its resolution 61/244, recognized that pre-screened rosters can considerably expedite the recruitment process in the United Nations. The

use of a roster-based staffing system will bring a number of benefits to the Organization, including efficiency, quality, speed and consistency. The proposed process to fill vacancies will expedite and streamline the staff selection process, enhance transparency and discourage duplication of effort. Unlike the current staff selection system, where rosters are limited to those applicants who were recommended but not selected for specific vacancies, the proposed rosters will accommodate a variety of staffing needs, reduce delays and significantly shorten the time required to fill a vacancy.

10. Rosters are already being used to fill a large number of vacancies in the Organization, including posts that are subject to competitive examinations, such as those for P-2 posts and language posts, and posts at the entry levels of the General Service and related categories. Rosters are also the primary mechanism used for filling posts at field missions administered by the Department of Field Support. Through a sampling of cases at those missions, the Office of Internal Oversight Services observed that, as recorded in the Integrated Management Information System (IMIS), the average number of days from the issuance of a vacancy announcement to the selected candidate's start date was 139 days. Those results do not reflect the expected impact of the ongoing business process improvement methods currently being applied by the Department of Peacekeeping Operations and the Department of Field Support to staffing in the field. Rosters are also used for field posts such as those administered by the Office for the Coordination of Humanitarian Affairs. The lessons learned from rosters already in use, such as those in the staffing of peacekeeping and political missions and in the national competitive recruitment examination, will be applied in the design of the staffing process.

11. The roster-based staffing system will be used for all types of staff and personnel, including consultants and individual contractors. The use of rosters is an opportunity to align the different methods of recruiting and placing staff and other personnel and will thus contribute to the greater integration of the Secretariat. The use of common processes and a shared IT platform will allow for both synergies and efficiencies to be achieved in the filling of vacancies at Headquarters, other established duty stations and field-based operations.

12. The use of pre-screened rosters will ensure that the quality of candidates remains high. With the support of the new talent management tool, the screening process will ensure that the best candidates are available for selection from the roster.

13. In a situation of rapidly evolving needs, rosters enable the prompt deployment of qualified staff and ensure that candidates are available for occupations where the need for additional staff exists. In addition, roster-based staffing provides a global picture of the Organization's human resources needs by taking into consideration requirements across various departments and offices.

14. Prior to being placed on rosters, applications will be subject to a preliminary automated screening process. Candidates who pass the preliminary screening will be rigorously evaluated through reviews by experts in relevant fields, endorsement by central review bodies and administrative clearance, including reference checks for external candidates. The result will be a pool of qualified candidates ready, willing and able to step into specific roles anywhere in the Secretariat. The review will ensure that the most suitable candidates are identified while taking into

consideration the way they could meet the Organization's policies on geographical representation and gender balance.

15. The current staff selection system for posts at Headquarters and established duty stations is reactive. The use of a roster-based system supported by workforce planning represents a proactive approach to staffing. A roster-based process will permit more rapid selection than is currently possible while ensuring that the quality of staff remains at the highest level. Programme managers will find that they are able to fill vacancies more quickly than in the past. The rigorous review preceding admission to a roster will improve the quality of candidates presented to programme managers.

16. The use of rosters will allow the Organization to organize longer-term targeted outreach activities to address the need to find candidates to meet geographical and gender targets, and the results of the outreach activities will enable the Organization to achieve better results in meeting those targets.

C. Roster-based staffing process

17. The following elements will support the roster-based process: workforce planning; generic vacancy announcements; panels of experts in relevant fields; central review bodies; and centralized background checking and help desk support.

18. Based on the findings of workforce planning, the Organization's staffing needs will be transmitted through advertising and outreach for the types of posts that need to be filled. It is proposed that generic vacancy announcements, based on the current generic job profiles, will be published based on projected needs determined through workforce planning. Since their introduction in 2002, generic job profiles have been developed and standardized continuously, and their use has become more widespread. Some 300 generic profiles are available to managers online.

19. Generic vacancy announcements will be used to advertise openings identified through workforce planning. Candidates will apply to generic vacancy announcements for similar posts in an occupational group. For example, based on the findings of workforce planning, a generic vacancy announcement for economic affairs officers at the P-4 level would be advertised to create a pool of candidates for vacancies that are projected to arise in this category and level Secretariat-wide. The use of generic vacancy announcements will serve to further streamline the recruitment process and provide greater consistency throughout the Organization. Based on the positive experience in recent years with the generic job profiles, central review bodies will no longer be required to review evaluation criteria before issuing vacancy announcements. The latter was agreed at the twenty-ninth meeting of the Staff-Management Coordination Committee in 2008.

20. Generic vacancy announcements will be advertised for 60 days to enable the creation of viable rosters that yield sufficient numbers of qualified candidates, in keeping with General Assembly resolution 59/266. Should the need for more candidates arise, the vacancy announcements may be reissued or extended. In some cases, open-ended vacancy announcements may be used, as is currently the practice in advertising by the Department of Field Support for field-based posts, as approved by the Assembly in its resolution 59/296.

21. In reference to the time period for the advertisement of generic vacancy announcements, experience with the 60-day advertisement period for single vacancies over recent years shows that most candidates apply well before the deadline. In the light of that experience, it is proposed that the General Assembly reduce the current period for advertising individual vacancies from 60 to 30 days. This measure would significantly contribute to shortening the time period needed to fill vacancies. Concerns have been expressed by Member States that reducing the period of advertising vacancies from 60 days to a shorter period would disadvantage potential candidates from some Member States with limited access to the United Nations website due to gaps in technology. However, a review of applications received through the website indicates that the technology gap is becoming less of an issue. In 2007, for example, over 500,000 applications were received from 189 countries through the website. The Member States from which there were no applications in 2007 were from countries where the lack of applications cannot be explained by any gap in technology.

22. The reduction of the advertisement period to 30 days will also apply to the issuance of individual vacancy announcements under the new roster-based system. It is recognized that rostering will not be suitable for all types of positions in the Organization. The Office of Human Resources Management will permit the issuance of individual vacancy announcements in situations where the roster cannot produce suitable candidates or for posts at high levels and/or of a specialized nature. For example, a position with unique requirements in a highly technical area may require the issuance of an individual vacancy announcement. The selection process will follow the staff selection system.

23. After applying to a generic vacancy announcement, a candidate will be screened for eligibility and basic suitability by human resources officers supported by the IT tool. Human resources officers will forward lists of candidates to panels of experts in a given occupational group, which would determine the suitability of both internal and external candidates for the types of occupations and levels for which they have expressed interest. The review will include competency-based interviews by experts in relevant fields and through other assessment methods, as appropriate.

24. Before placement on the roster, central review bodies, which are joint staff-management bodies, will review the process leading to the placement on the roster. These bodies determine whether the process has been conducted in a fair and transparent manner in accordance with the relevant rules and procedures. Central review bodies have been established throughout the Secretariat, with the process well under way for peacekeeping positions. In 2008, the Department of Field Support established the parameters for a system of central review bodies for field positions that includes experts in a number of specialized fields and, at the time of writing, was taking the necessary steps, in consultation with the Field Staff Union, to establish those bodies.

25. The rosters will be made up of candidates who have been deemed suitable, whose backgrounds have been verified and who are ready to be selected for available positions in the United Nations. Names of rostered candidates will be made available to programme managers. Candidates on the roster will be identified to show whether they are staff members, which competitive examination they have been successful in and will include the representation status of the Member State of their nationality. This will ensure that attention is drawn to aspects of their

candidature related to the Organization's mandates and rules. Internal staff members will have to be reviewed and given full consideration in accordance with staff regulation 4.4, which requires that "the fullest regard shall be had, in filling vacancies, to the requisite qualifications and experience of persons already in the service of the United Nations".

26. Following the publication of generic vacancy announcements, as specific vacancies arise they will be published for up to 30 days on the United Nations website in order to inform the public, staff and Member States of the availability of specific posts to be filled from the roster. Candidates on the roster for the available occupational group, category and level would be informed of the vacancy and may confirm their interest. The filling of the vacant post will be effected solely through the roster of candidates pre-approved for that occupational group and level.

27. Staffing decisions are made by heads of department and office within the authority delegated to them from the Secretary-General. In making selection decisions, heads of departments and office are guided by the Charter of the United Nations, legislative mandates, including mandates on geographical distribution and gender balance, and the relevant regulations, rules and administrative instructions. Senior managers compacts with the Secretary-General and human resources action plans represent commitments of heads of departments and office to achieve practical and measurable targets in the areas of staffing and recruitment.

D. Roster management

28. Rosters will be actively managed to ensure that candidates are available and interested in specific vacancies and that there are sufficient numbers of candidates for selection for current and anticipated vacancies. Candidates will normally remain on the roster for three years, with the possibility of extension for a further two years if they confirm their interest and availability. At the end of five years, candidates will normally be removed from the roster. Candidates may continue to apply for generic vacancy announcements as they arise, and will be contacted periodically during the rostering period to ascertain their continued availability and interest. The ratio of applicants to available posts will be identified through workforce planning. It is envisaged that, for a viable roster system, it will be necessary to maintain a ratio of (up to) 5.1 for the number of candidates on the roster to the number of vacancies available.

29. Experience has shown that one of the major challenges in the staffing system is the high volume of applications for jobs. The introduction of Galaxy, the online electronic staffing tool, resulted in a tremendous increase in the number of applications to posts, in particular from external candidates. It is difficult for all participants in the review process to handle the large volume of applications and to ensure that all qualified candidates are considered. Galaxy, although it has some features that facilitate the review of candidates, has proven to be an inadequate tool for the task at hand.

30. The new electronic talent management framework will enable automated screening and the use of more sophisticated means to assist in finding the most suitable candidates. This will be a crucial step in saving time in the screening and review of candidates and facilitating the high volume of applications, which number over half a million annually. The framework will include advance search facilities,

online filtering and reporting abilities and analytical capacity, which will enable users to manage a large number of applications efficiently while ensuring the application of standards across the staffing process. It will be possible to link information in personal history profiles, vacancy announcements and evaluation criteria using competencies and skills as the underlying foundation. That same foundation will also be the basis for performance management and career development. Extensive online help features will guide users in every step in order to ensure ease of use and understanding of the process.

31. To ensure that the most suitable candidates are selected, several elements must be enhanced and integrated. The link between the requirements of a position, the personal history profile and the evaluation of candidates will be created in order to ensure that alignment between all phases of the review process is improved and that the candidates who best meet the requirements are rostered and selected. The redesign of the application process is key to bringing about a more structured and systematic way of capturing a candidate's experience, qualifications and skills. These will facilitate more effective matching of candidates to both generic and specific vacancy announcements and the evaluation of candidates to determine where they best match the Organization's requirements.

32. Another challenge in the staffing process is the review of candidates' references, employment history and educational credentials. In order to ensure standardization and economies of scale, reduce duplication of work and profit from related efficiencies, it is proposed that these tasks be performed in a more centralized manner.

33. Outreach activities will be expanded significantly in order to address geographical and gender mandates and occupations for which candidates cannot easily be identified through the issuance of vacancy announcements. Outreach activities, including collaboration with professional associations, governmental entities and non-governmental organizations, will provide candidates for the rosters through the staffing process described above.

E. Linkage with other reforms in talent management

34. Systematic workforce planning and recruitment based on pre-screened rosters are part of a broader integrated talent management framework. These measures, when combined with the Secretary-General's proposals to strengthen leadership and management capacity, enhance mobility and introduce occupational networks, improve career development and performance management will be instrumental for the attainment of the Secretary-General's vision of attracting, recruiting, retaining and developing a highly skilled and performance-driven workforce. In the same manner, the Secretary-General's proposals on streamlining of contractual arrangements and harmonization of conditions of service in the field will result in a more integrated, field-oriented and global workforce.

III. Implementation: phased approach

35. The Secretary-General proposes to commence preparatory work on the roster-based system in January 2009. It is also proposed that rosters be phased in for

certain types of functions, in addition to the already existing rosters, starting in July 2009, as a transitional measure before full-scale application by the end of 2009. In that way, the new work processes involved in the application of the roster system can be tested and refined.

36. In order to handle the anticipated large increase in workload for the clearance of candidates (three times the current volume) and in support provided to users, both external and internal, any associated resource requirements that may be necessary will be considered in the context of the budgetary framework for the biennium 2010-2011.

IV. Actions to be taken by the General Assembly

37. **The General Assembly is requested to approve:**

(a) **The establishment of a roster-based approach for selection of staff for an initial period of one year;**

(b) **The reduction in the period for the circulation of specific vacancy announcements from 60 days to 30 days.**

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Promotion and protection of human rights: human rights questions, including alternative approaches for improving the effective enjoyment of human rights and fundamental freedoms

Protection of and assistance to internally displaced persons

Note by the Secretary-General

The Secretary-General has the honour to transmit to the members of the General Assembly the report of the Representative of the Secretary-General on the human rights of internally displaced persons, Mr. Walter Kälin, in accordance with General Assembly resolution 62/153 and Human Rights Council resolution 6/32.

* A/63/150 and Corr.1.

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Report of the Representative of the Secretary-General on the human rights of internally displaced persons

Summary

In his fourth report to the General Assembly pursuant to its resolution 62/153, the Representative of the Secretary-General on the human rights of internally displaced persons describes the activities undertaken during the period from August 2007 to July 2008 in implementation of his mandate.

Because the submission of this report coincides with the tenth anniversary of the Guiding Principles on Internal Displacement, the Representative has taken the opportunity to review the major accomplishments of the past decade and the remaining challenges to improved protection for the rights of displaced persons.

The Representative concludes the report by formulating a set of recommendations for strengthening the response in matters relating to internal displacement for the consideration of States, humanitarian agencies and donors.

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I. Introduction

1. This report is submitted by the Representative of the Secretary-General on the human rights of internally displaced persons, Walter Kälin, pursuant to General Assembly resolution 62/153 and Human Rights Council resolution 6/32.

2. As in his earlier reports, the Representative first presents the activities which he has undertaken in implementation of his mandate during the period from August 2007 to July 2008. During this period, the Representative pursued the dialogue which he maintains with Governments, regional institutions and United Nations agencies. He also took part in the deliberations of the Human Rights Council that culminated in the renewal of his mandate, which gave him the opportunity to give a brief account of the activities undertaken in the implementation of his mandate and the ongoing challenges faced in ensuring protection for the human rights of internally displaced persons.

3. During the reporting period, the Representative also endeavoured to pay greater attention to issues linked to displacements caused by natural disasters, a matter which he believes merits greater attention from all the actors and particularly in view of the consequences of the climate change that is under way.

II. Tenth anniversary of the Guiding Principles on Internal Displacement

4. The submission of this report coincides with the tenth anniversary of the Guiding Principles on Internal Displacement. Since their formulation, the Principles, which were inspired by and are consistent with international human rights law and international humanitarian law, have gained considerably in authority. Not only have they been recognized by the General Assembly as "an important international framework for the protection of internally displaced persons",[1] but in many countries, they have also been recognized as being binding at the national level. The International Conference on the Great Lakes Region Protocol on the Protection of and Assistance to Internally Displaced Persons provides that Member States should "undertake to adhere to the principles of international humanitarian law and human rights applicable to the protection of internally displaced persons in general and as reflected in the Guiding Principles in particular".[2] The Guiding Principles have also been incorporated into national policies, notably the recent national Iraqi policy of July 2008 on displacement which, inter alia, stresses that the Guiding Principles have become part of international law (chapter 5). Similarly, the Government of Germany, in its 2008 report on that country's human rights policy, recognized that the Guiding Principles have become part of customary international law.[3]

5. In accordance with the Human Rights Council resolution concerning the renewal of his mandate,[4] the Representative has continued his efforts to further the

[1] Para. 132 of General Assembly resolution A/60/1.

[2] Article 3 of the International Conference on the Great Lakes Region Protocol on the Protection and Assistance to Internally Displaced Persons, 30 November 2006.

[3] Achter Bericht der Bundesregierung über ihre Menschenrechtspolitik in den auswärtigen Beziehungen und in anderen Politikbereichen Berichtszeitraum: 1. März 2005-29. Februar 2008, section 6.2.2.

[4] Human Rights Council resolution 6/32, para. 7 (c).

dissemination, promotion and application of the Guiding Principles and to provide support for efforts to promote capacity-building and use of the Guiding Principles, as well as the development of domestic legislation and policies. In that context, the Representative has reviewed and updated the Annotations to the Guiding Principles,[5] thereby providing a tool which should facilitate access to the sources of the law which forms the basis of the Guiding Principles. The first edition of the Annotations was well received and the Protocol adopted by the International Conference on the Great Lakes Region calls on Member States to accept their use as an authoritative source for interpreting the application of the Guiding Principles.[6] The new edition of the Annotations was launched at a round table on the tenth anniversary of the Guiding Principles, on 10 April 2008, on the occasion of the annual meeting of the American Society of International Law.

6. In order to mark the tenth anniversary of the Guiding Principles, a high-level international conference, organized by the Government of Norway, will be held in Oslo on 16 October 2008. The conference, which is being jointly organized with the Norwegian Refugee Council, the Representative of the Secretary-General on the human rights of internally displaced persons and the Brookings-Bern Project on Internal Displacement, will pay particular attention to the integration of the Guiding Principles into national law and policy, to their relevance in situations in which displacement is caused by natural disaster and other environmental factors, and to the prospects for the elaboration of legally binding instruments on the protection of and assistance to displaced persons at the regional and subregional levels.

7. The Oslo conference will also be the occasion on which the legislators' handbook on which the Representative has been working for three years in cooperation with the Brookings-Bern Project on Internal Displacement will be launched. The aim of the handbook is to provide guidance on ways of incorporating the human rights of internally displaced persons into internal displacement laws and policies at the national level. On 16 and 17 May 2008, the Government of Austria invited experts from United Nations agencies, representatives of Governments dealing with problems of displacement, and representatives of the academic world and civil society to a meeting at which a preliminary draft of the text was revised.

III. Activities of the Representative of the Secretary-General during the period from August 2007 to July 2008

8. The Representative took part in the debates of the sixth session of the Human Rights Council, during which it was decided to extend the mandate of the Representative of the Secretary-General on the human rights of internally displaced persons so that he could, inter alia, address the complex problem of internal displacement and work towards strengthening the international response to displacement situations.[7] In his statement, the Representative recalled that more

[5] Water Kälin, *Annotations to the Guiding Principles on Internal Displacement*, published by the American Society of International Law and the Brookings Institution-University of Bern Project on Internal Displacement, *Studies in Transnational Legal Policy, No. 38, The American Society of International Law, Washington, D.C., 2008*.

[6] International Conference on the Great Lakes Region, Protocol on the Protection of and Assistance to Internally Displaced Persons, article 6, para. 2, 30 November 2006.

[7] Human Rights Council, resolution 6/32, para. 6 (b).

than 25 million people were currently displaced as a result of conflicts and that the trend was continuing. He stressed that the strategy for which he had opted in implementing his mandate was based on several elements: the establishment of a solid normative framework for the protection of internally displaced persons; a clear political will to implement those norms; the strengthening of the capacities of States which have primary responsibility to protect and assist displaced persons; and the shared capacity of the international community to respond to new challenges in the field of displacement. The Representative concluded that his mandate as currently formulated was sufficiently flexible to allow him to intervene at various levels and in a variety of ways to strengthen the protection of displaced persons. In that regard, he emphasized the mandate that he has been given to integrate the rights of displaced persons into the work of United Nations institutions which, in his view, has led to very fruitful cooperation with numerous institutions.

9. At the eighth session of the Human Rights Council, the Representative presented his annual report and the reports on the missions undertaken in Azerbaijan, the Central African Republic, the Democratic Republic of the Congo and Sri Lanka. As in previous years, the presentation of the reports was followed by a lively dialogue with the delegations present. In his report to the sixty-second session of the General Assembly, the Representative had already had the opportunity to present a summary of the conclusions and recommendations which he had made subsequent to his missions to Azerbaijan and the Central African Republic. In this report, he will therefore refer only to the missions to the Democratic Republic of the Congo and Sri Lanka.

10. As part of his ongoing dialogue with Governments, the Representative, in addition to country missions, continues to the extent possible to pay working visits and visits in follow-up to missions which he or his predecessor undertook in the past.

A. Country missions

Sri Lanka

11. The Representative made an official visit to Sri Lanka from 14 to 21 December 2007, at the invitation of Government authorities.[8] In addition to the capital Colombo, he visited the districts of Puttalam, Vavuniya, Trincomalee and Batticaloa. The purpose of the mission was to identify the major obstacles to the achievement of durable solutions for displaced persons.

12. At the conclusion of his visit, the Representative commented on the complexity and scale of the problem of internal displacement in Sri Lanka. He noted that populations were displaced mainly as a result of conflict. Some 300,000 persons are estimated to have been displaced since 2006 as a result of conflict. At the same time, some populations have remained displaced for more than 15 years, as in the case of the northern Muslim populations in the Jaffna and Puttalam areas.

13. The Representative also noted that a very small number of those who had been displaced as a result of the tsunami were still displaced in the Eastern Province.

[8] The report on the Representative's mission to Sri Lanka was submitted to the Human Rights Council as document A/HRC/8/6/Add.4.

14. At the conclusion of his mission, the Representative noted that the overwhelming concern of both displaced persons and returnees in Sri Lanka was security. The sources of insecurity included the tactics of the security forces; continued incursions and attacks by the Liberation Tigers of Tamil Eelam (LTTE); threats and attacks by irregular armed groups, including the Tamil Makkal Viduthalai Pulikal (TMVP); forced disappearances by all the parties to the conflict as well as abductions by unidentified persons; looting; and incomplete mine clearance. The Representative also expressed his concern over the limited access by displaced persons to their means of livelihood owing to the security situation.

15. The Representative acknowledged the efforts of the Sri Lankan Government to address the situation of displaced persons as well as its desire to find durable solutions to the situations of those who have been displaced for many years. He nonetheless made a number of recommendations with a view to protecting civilian populations and preventing, to the extent possible, new displacements. He called on all parties to the conflict to honour their obligations under international humanitarian law and international human rights law, and in particular to facilitate humanitarian relief and safe passage for all civilians seeking safety. In addition, in accordance with the Guiding Principles, he urged the Sri Lankan Government to develop a comprehensive policy to address all aspects of internal displacement, assign institutional responsibility clearly, and ensure the protection of the rights of displaced persons.

16. The Representative also called on the Sri Lankan Government to increase consultation and information-sharing with displaced persons and returnees, as well as with humanitarian actors, with a view to enhancing the humanitarian response and alleviating the sense of insecurity.

17. As a follow-up to this mission, the Representative plans to take part in a national consultation on durable solutions for persons displaced in Sri Lanka as a result of the armed conflict. The consultation is planned for the end of September and is being organized jointly by the Sri Lankan Government, the Office of the United Nations High Commissioner for Refugees (UNHCR), and the Representative. The conclusions and recommendations adopted at that time will form the basis for development of the action plan for durable solutions for displaced persons envisaged by the authorities.

Democratic Republic of the Congo

18. At the invitation of the Congolese Government, the Representative undertook an official mission to the Democratic Republic of the Congo from 12 to 22 February 2008.[9]

19. Following his visit, the Representative concluded that the eastern part of the Democratic Republic of the Congo was in the midst of a serious protection crisis and a serious humanitarian crisis, highlighted inter alia by the magnitude of the phenomenon of displacement in that country. The number of displaced persons is estimated at over 1.2 million.

[9] The report on the Representative's mission to the Democratic Republic of the Congo was submitted to the eighth session of the Human Rights Council as document A/HRC/8/6/Add.3.

20. The Representative is of the opinion that people have been forced into displacement primarily owing to clashes between the Armed Forces of the Democratic Republic of the Congo (FARDC) and the various armed groups present in the east of the country, and to clashes among the armed groups themselves. He also noted with concern that the climate of insecurity and widespread violence was a further cause of much of the displacement. This insecurity, which was found mainly in the provinces of North Kivu and South Kivu, was the result of numerous killings, systematic rape and forcible recruitment of children and young adults, as well as other forms of abuse and human rights violations committed against the civilian population by armed groups and members of FARDC, among other factors.

21. The Representative noted that displaced persons lived in extreme insecurity and were subject to violence, including acts of sexual violence and forcible recruitment of children. In addition, a large number of them have lost the voter cards which also serve as identity cards, making them even more vulnerable.

22. With regard to humanitarian assistance, the Representative noted that, although the vast majority of displaced persons were living with host families, most of the aid was sent to the camps for displaced persons, whether informal or organized. The host communities and families received comparatively little aid, although many of them were overwhelmed by the burden of supporting the new arrivals and were often at the limits of their capacity. He also noted that humanitarian access to the most vulnerable groups was often restricted.

23. At the conclusion of his visit, the Representative noted that the authorities were aware of the challenges posed by the magnitude of the problem of internal displacement in the Democratic Republic of the Congo and the conditions under which displaced populations lived. Nevertheless, while taking account of the limited resources of a country in the middle of a transition, he regrets that greater efforts have not been made to provide them with assistance and that a legal framework has not been developed to address these issues. He believes that the adoption of peaceful solutions to the present conflicts, the renunciation of violence, scrupulous respect by all actors for the guarantees set out in humanitarian law and human rights instruments, and an unfailing commitment to combating impunity are essential in order to put an end to the serious violations of human rights suffered by the displaced persons in the eastern part of the Democratic Republic of the Congo. He is of the opinion that continued dialogue is the only way out of the conflict affecting the country, and that any resort to arms would lead to disastrous consequences for the civilian population, especially the hundreds of thousands of persons who have already been displaced or who would be forced to flee as a result of such operations.

24. In this context, and in accordance with the Guiding Principles, the Representative recommended the development of a two-pronged strategy:

(a) First, the political dialogue between the Government and the various armed groups and other concerned parties should be continued. In this regard, the statements of commitment signed at the Conference for Peace, Security and Development in North and South Kivu, held in Goma in January 2008, on a common approach to end the threat posed to peace and stability in both countries and the Great Lakes region, as well as the joint communiqué signed in Nairobi on 9 November 2007, potentially offer genuine opportunities for stabilization, and, for the displaced persons, a possible return home.

(b) Second, strengthening of humanitarian assistance and activities for the protection of displaced populations as well as early recovery measures where returns are envisaged or already under way. Support for host families should also be increased.

25. The Representative is concerned that, since his visit, displacements have continued and that more than 65,000 new cases have been reported for the second quarter of 2008. He is also concerned at the continued climate of widespread insecurity, generalized violence against the civilian population and violations of human rights that put populations at risk of fresh displacements and pose an obstacle to the return of those already displaced.

B. Working visits and follow-up activities

Afghanistan

26. The Representative visited Afghanistan from 11 to 17 August 2007 to participate in a conference organized by the United Nations on the protection of civilians. He took the opportunity to discuss with Vice President Karim Khalili, several ministers and representatives of international agencies and non-governmental organizations on the situation of displaced persons in the country.

27. The Representative expressed his concern at the number of persons displaced as a result of military operations and fighting in the south of the country, which has the potential to increase significantly if the conflict continues at the present pace. He also believes that the situation could worsen and that the number of displaced persons could rise if refugees returning from Pakistan or the Islamic Republic of Iran are unable to return to their places of origin or become integrated in another region, or if the volume of such returns exceeds the ability of Afghan society to absorb them. The Representative also deplores the difficulties encountered by humanitarian personnel in gaining access and providing assistance to such populations as a result of the prevailing insecurity.

28. On the subject of protection against displacement, the Representative called on all parties to comply with international humanitarian law to help minimize the scale and duration of displacement. In particular, he stressed the obligation to respect the distinction between civilians and combatants, the principle of proportionality and the obligation to take all necessary precautionary measures. In addition, the Representative called the attention of the Government and humanitarian organizations to the need, in the quest for durable solutions for displaced persons, to pay special attention to the right to security, shelter and means of livelihood, as well as the need to address land disputes and the question of land redistribution.

29. The Representative recommended that Government authorities and the international humanitarian community should evaluate the needs of displaced persons not only in terms of assistance and protection, but also in the framework of the search for durable solutions. He also called for the development of a national strategy on internal displacement and the clear identification of coordination machinery and specification of responsibilities. The evaluation has since been completed. The Representative is continuing the dialogue on these issues with the United Nations country team, and welcomes the fact that the evaluation and efforts to enhance coordination are under way.

Norway and Canada

30. The Representative visited Norway on 9 November 2007 and Canada on 5 February 2008. These visits enabled him to renew his excellent relations with the authorities of these countries and to discuss matters of common interest.

Kenya

31. The Representative made a working visit to Kenya from 19 to 25 May 2008 at the initiative of the Office for the Coordination of Humanitarian Affairs and with the agreement of the Government of Kenya in order to gain a better understanding of the situation of persons who had been displaced following the post-electoral violence in December 2007 and January 2008 and to make recommendations to stakeholders so that they could better address the needs of displaced persons for protection.

32. During his stay, the Representative met with the main stakeholders working on displacement issues at both the national and international levels. He also undertook field visits to Nakuru, Molo, Burnt Forest and Eldoret as well as to the capital.

33. The Representative recognized that displacements as a result of post-electoral violence are not a new phenomenon in Kenya and that many people had fled their homes in similar circumstances in 1992 and 1997. With regard to the events of December 2007 and January 2008, it was estimated that between 350,000 and 500,000 persons had been displaced at the height of the crisis. In February 2008, an estimated 300,000 persons were in camps and probably an equivalent number were being accommodated by host families.

34. The Representative was impressed by the speed and efficiency of the humanitarian response in the emergency phase, given the challenges posed by sudden emergencies of that magnitude. He nevertheless noted that many challenges remained in the transition from the emergency to the early recovery phase.

35. On 5 May 2008, the Kenyan Government launched Operation Rudi Nyumbani (Operation Return Home). In view of the crucial importance of farmers to national food security, the aim was to focus on that population group initially so that they could return to their fields for the planting season. As most homes had been destroyed and the majority of the displaced persons still felt unsafe in their home communities, the returnees moved into transitional community centres close to their fields rather than returning to their homes. The Representative was concerned by the way in which the return operation had been carried out, as many displaced persons did not have adequate shelter, humanitarian assistance or the tools and seeds needed to resume their agricultural activities. He was also concerned at the fate of landless farmers and small businessmen who would not have a place to return to in order to continue with their lives if the authorities did not take special action. He recommended that the Kenyan Government slow down the process of return so that more information could be gathered and in order to strengthen coordination and planning between the various central and local government agencies involved, and between the Government and its humanitarian partners.

36. The Representative also welcomed the willingness shown by the Kenyan authorities to seek durable solutions to the problem of displacement. He emphasized in that context that resolving the problem of displacement and avoiding future displacements were inextricably linked to the need to ensure peace and

reconciliation between the communities. The Representative also emphasized the need to respect the four basic conditions for the return of displaced persons: (a) return should be voluntary; (b) the security of returnees should be guaranteed; (c) the property of displaced persons should be returned to them and their houses rebuilt; and (d) an environment conducive to their permanent return should be created, and access by returnees to income-generating activities assured. He called on the authorities, international agencies and donors to strengthen their activities and their commitment in those areas.

Bosnia and Herzegovina

37. The Representative undertook a working visit to Bosnia and Herzegovina from 16 to 20 June 2008 at the invitation of the Minister of Human Rights and Refugees. That visit was a follow-up to his official mission to the country in June 2005. During his stay, he had meetings with the main national and international stakeholders working with displacement issues. In addition to the capital Sarajevo, he also had the opportunity to visit the provinces of Doboj, Kotor Varos, Bosansko Grahovo, Mostar, Capljina, Jablanica and Konjic.

38. As agreed with the Ministry of Human Rights and Refugees, the objective of the visit was twofold: on the one hand to evaluate the progress made in the integration of displaced persons; and on the other hand to make recommendations to the Government and the international community in the context of the ongoing review of the strategy for implementation of annex IV to the General Framework Agreement for Peace in Bosnia and Herzegovina (Dayton Peace Agreement) regarding solutions to the problems of refugees and displaced persons, including their return.

39. The conflict that had taken place in Bosnia and Herzegovina from 1992 to 1995 had resulted in the displacement of approximately 2.2 million persons, or nearly half the population. After the signing of the Dayton Peace Agreement, it was estimated that the majority of the displaced persons had been able to return to their places of origin or rebuild their lives in another country. Today, nearly 120,000 persons are still displaced. The improved security situation after the war, the plan for the implementation in 2002-2003 of the property law and the rebuilding of homes have contributed significantly to the increase in the number of displaced persons belonging to ethnic minorities who have returned home. Nevertheless, it has been observed that over the last few years, fewer refugees and displaced persons have been returning permanently to the places where they had lived prior to the war. Among minority groups, in particular, a significant percentage of those registered as having returned to their communities of origin did not stay. The decline in the number of returnees is due to the fact that in many areas the conditions for permanent return do not yet exist.

40. During the visit, the Representative expressed his dismay at seeing that 13 years after the war, many people continued to be displaced or to live in impoverished conditions in sites established for returnees. In his view, such persons, who are in need of assistance and protection, can be divided into three categories:

(a) Persons who have returned but who face legal, social, economic and political obstacles which prevent their return from being sustainable;

(b) Persons who are still displaced but who are deterred from returning by the conditions mentioned above;

(c) Persons who are too vulnerable or choose not to return and who need humanitarian support and assistance to resettle in their current place of residence or elsewhere in the country.

41. The Representative noted with satisfaction the Bosnian Government's many recent efforts to assist the displaced population, particularly since the attention of the international community has decreased. In 2008, the funds allocated to the Ministry of Human Rights and Refugees to support the return process were significantly increased and, for the first time, a portion of the funds was allocated for adopting measures to ensure that returns were permanent.

42. In order to find solutions to the remaining problems arising from the displacements caused by the conflict, the Representative recommended that the Bosnian Government should take urgent action to resolve about 8,000 humanitarian cases, in other words, to integrate the most vulnerable persons still in community centres or other forms of temporary accommodation and who are unable to return, to help them to live decently. The Representative also emphasized that the success of the return process should be measured by the real opportunities offered to the returnees, especially those belonging to minority groups, to rebuild their lives and reintegrate themselves into society in their places of origin.

43. The Representative also recommended that the revised strategy for implementing annex VII to the Dayton Peace Agreement should focus on activities to make returnees stay permanently and create mechanisms and allocate the resources needed to achieve that important goal. These activities should include rebuilding homes and infrastructure, creating opportunities for the persons concerned to earn a living, and combating discrimination against minorities, particularly in access to employment and the use of symbols or the perennial obstacles resulting, for example, from the incompatibility of the health systems of the different agencies involved, which prevents people from fully enjoying their rights to health and social security.

44. Finally, the Representative also called on the international community to support the Bosnian Government in the implementation of projects for displaced persons, using a needs-based approach and giving priority to the most vulnerable groups.

C. Visits related to displacements as a result of natural disasters

45. Recently, the Representative has focused in particular on the challenges of protecting persons displaced as a result of natural disasters. In addition to taking an active part in developing a regulatory framework and in particular the Operational Guidelines on Human Rights and Natural Disasters in cooperation with the Inter-Agency Standing Committee, the Representative made several working visits to countries in the Americas and Africa to gain a better understanding of the measures taken by the different actors in response to displacement as a result of natural disasters and to engage the authorities and the different actors concerned in a dialogue aimed at improving the protection of persons displaced by such disasters. Following these visits, the Representative wishes to submit a summary report on the

protection of persons displaced as a result of natural disasters to the tenth session of the Human Rights Council.

46. The Representative also made a presentation at the humanitarian segment of the Economic and Social Council on the link between climate change and migration/displacement. He also presented the Operational Guidelines on Human Rights and Natural Disasters at a panel meeting organized by the Swiss Government on the protection of persons affected by natural disasters during the humanitarian segment of the Council.

United States of America

47. The Representative went to the United States from 14 to 18 January 2008 for a working visit to study the impact of hurricane Katrina, which had devastated the south-eastern coast of the country between 29 August and 1 September 2005, on the situation of the persons who are still displaced as a result of this disaster.

48. During his visit, the Representative went to Houston (Texas) and New Orleans. He held discussions with Government officials and the American Red Cross, local elected officials, members of civil society and displaced persons.

49. The visit showed that the main challenges for most of the persons still displaced, many of whom were in a very vulnerable situation, belonged to ethnic minorities or lived in poverty, were access to adequate assistance for rebuilding their houses or to decent housing at affordable prices, access to jobs, the very low level of their incomes and poor prospects in the medium and long term.

50. During his stay, the Representative conducted several workshops, attended by municipal officials and representatives of the various affected communities, to develop a common approach to the measures that should be adopted to ensure lasting solutions to the situation of displaced persons.

Honduras and Panama

51. The Representative paid a working visit to Honduras from 6 to 10 May 2008. The objective of the visit was to engage in a dialogue with the Government, civil society and international organizations in order to better appreciate their experiences in dealing with the human consequences of natural disasters and to better understand the protection needs of persons displaced by such disasters. The visit to Honduras was followed by a regional workshop on human rights and natural disasters, which was held in Panama on 12 and 13 May 2008. This workshop was organized in cooperation with the Brookings-Bern Project on Internal Displacement and the Office for the Coordination of Humanitarian Affairs Regional Office. The workshop was attended by some 24 participants, who were mostly from United Nations agencies but also including specialists in disaster risk management from various countries of the subregion. In addition to formal presentations, the aim of the workshop was to promote a law-based humanitarian response to natural disasters and to allow the different participants to share their experiences and analysis on displacement caused by natural disasters.[1]

52. During his visit to Honduras, the Representative met with senior Government officials responsible for managing the response to natural disasters and their consequences, as well as with representatives of international organizations and civil society.

53. The Representative welcomed the ongoing elaboration of a law on the national system for natural disaster risk management, which is certain to strengthen the normative framework in that area. As Honduras is one of the countries most exposed to the risk of natural disasters, the Representative made a number of recommendations to the authorities to help them respond more effectively to the challenges ahead. He recommended, in particular, the systematic incorporation of disaster risk-reduction measures into national development programmes, the provision of financial and technical risk management support to municipalities and taking of the necessary measures to systematically address the need to protect the human rights of persons affected by natural disasters, including displaced persons or indigenous communities affected by displacement.

54. Lastly, the Representative recalled that the main challenge following a natural disaster was to rebuild the lives of the people affected and emphasized the need to focus on the search for lasting solutions for displaced persons.

Mozambique, Madagascar and South Africa

55. In July 2008, the Representative made successive visits to Mozambique and Madagascar as part of the series of working visits that he has undertaken on issues related to natural disasters. The aim of these visits was to gain access to firsthand information on the steps taken to meet the challenges posed by the displacement of people in the subregion. Following these visits, the Representative travelled to South Africa, where he participated in a regional workshop on displacement, organized by the Office for the Coordination of Humanitarian Affairs Regional Office.

56. At the conclusion of his visit to Mozambique, the Representative recognized the impressive efforts made by the Government and other local stakeholders, with the support of the United Nations system, to protect the human rights of persons displaced by regular flooding. He noted in particular the institutional arrangement put in place to respond to these disasters, which has helped considerably to reduce the loss of human life from the floods that occur every year. He considers that such an arrangement could serve as a model for other countries.

57. The Representative nevertheless emphasized that a number of complex challenges remained in the early recovery phase. He referred in particular to issues arising from the resettlement of populations in safe areas and the trade-off between the obligation of Government to protect the lives of displaced persons and the right of such persons to move freely and to choose their place of residence. While welcoming the positive aspects of the current resettlement process for the populations concerned, the Representative recommended that the authorities should establish consultation processes with the populations concerned so that they could fully participate in decision-making that affected their lives. The Representative also underlined the importance of ensuring that the affected populations enjoyed the right to adequate housing, health and education, particularly in the resettlement areas. In order to prevent displaced persons from returning to high-risk areas, it is important to ensure that they have access to their livelihoods.

58. During his visit to Mozambique, the Representative held meetings with the ministers responsible for managing the consequences of natural disasters, with the representatives of international and non-governmental organizations and also with

displaced persons. He visited the capital, Maputo, and toured the resettlement centres in the Caia region.

59. In Madagascar, which is regularly affected by cyclones, floods and droughts, the Representative welcomed the reform of the natural disaster emergency response agencies. He also noted the important role that the United Nations system played in enhancing the response capacity and the coordination of humanitarian actors.

60. While recalling that national authorities bear the primary responsibility for assisting populations affected by natural disasters, including displaced persons, the Representative emphasized the importance of the efforts to be made by the local authorities. In this context, the Representative recommended that steps should be taken to build capacities at the regional and local levels. He also highlighted the need for measures to protect the most vulnerable people from discrimination and exploitation, particularly female heads of households and girls or elderly persons without family support.

61. In Madagascar, displacements caused by natural disasters often last only a few days or weeks. Nevertheless, the Representative noted that the ability of returnees to recover presented a real challenge. In order to better meet the need during this phase to protect and assist the persons affected, who often live in very precarious conditions, the Representative called on the international community and donors to support the Malagasy authorities in their efforts to restart rehabilitation and income-generating activities.

62. During his mission, the Representative met with the representatives of several ministries involved in disaster emergency response. He was particularly pleased to have the opportunity to meet with the Prime Minister. He also held meetings with United Nations officials, representatives of civil society and people who had been affected by natural disasters.

D. Cooperation with regional organizations

63. During the period under review, the Representative continued his dialogue with regional organizations and, as far as possible, supported their efforts with a view to better protecting the rights of displaced persons, including by strengthening the normative framework at the regional level.

64. As in the past, the Representative continues to have close contacts with the Special Rapporteur on Refugees, Asylum Seekers and Displaced Persons in Africa from the African Commission on Human and Peoples' Rights. For two years now, he has been hoping to undertake a mission with him to the Sudan in order to gain insight into the situation of displaced persons in Darfur and the pattern of returns in the south of the country.

65. The Representative also continues to work closely with the African Union on its initiative to elaborate a convention on internally displaced persons. He therefore played an active part in discussions on this draft at the invitation of the African Union. In particular, he was represented at the meeting of national legal experts held in April 2008 and made a point of personally participating in the second meeting of experts held in Addis Ababa in June 2008.

66. The Representative has paid particular attention in 2008 to the issue of internal displacement in countries of French-speaking Africa. In this context, he hopes to be able to work closely with the International Organization of la Francophonie (OIF) to better protect the rights of displaced persons in the member countries of OIF. The Representative had an initial meeting with the Permanent Representative of OIF to the United Nations Office at Geneva and expressed satisfaction at their fruitful discussion on the challenges faced by French-speaking countries which are experiencing situations of internal displacement and on the avenues of cooperation to explore in the future. The Representative also noted with satisfaction that OIF had been represented for the first time on the law course on internal displacement, held in San Remo (Italy).

E. Mainstreaming of the fundamental human rights of internally displaced persons into all relevant parts of the United Nations system

67. As part of his ongoing efforts to ensure better integration of the rights of displaced persons into the activities of the competent United Nations bodies in accordance with his mandate, the Representative continued to work closely during the period under review with the Office for the Coordination of Humanitarian Affairs, the Inter-Agency Standing Committee, the Office of the United Nations High Commissioner for Refugees, the Office of the United Nations High Commissioner for Human Rights (OHCHR) and the Peacebuilding Commission.

Office for the Coordination of Humanitarian Affairs

68. As in the past, the Representative continued to work closely with the Office for the Coordination of Humanitarian Affairs and with the Emergency Relief Coordinator, one of whose colleagues has the task of supporting the work of the Representative. Through them, the Representative was invited to contribute to major documents prepared by the Office for the Coordination of Humanitarian Affairs and benefited from its support in the preparation of his missions and working visits. The Representative also cooperated closely with the Office in the organization and conduct of his working visits on natural disasters and the seminars held during the visits. He also participated in the Office's major activities, such as the seminar organized in Kabul in August 2007 on protection of civilians.

Inter-Agency Standing Committee

69. The Representative continued to participate actively in the deliberations of the Inter-Agency Standing Committee, at both the level of principals and that of the working group.

70. As regards the work of the working group on protection, the Representative made a substantial contribution to the preparation of the handbook for the protection of internally displaced persons, which was published informally in December 2007 for testing by the different partners working in the field. He was also the focal point for the activities of the working group on protection related to natural disasters. In this regard, he also drew the attention of the members of the working group to the need for greater focus on the conceptual and practical challenges posed by protection issues in the context of natural disasters.

71. A seminar on early recovery, in the context of the search for lasting solutions for displaced persons, was held in Geneva from 28 to 30 May 2008 by the United Nations Development Programme's Bureau for Crisis Prevention and Recovery, in partnership with the Representative, the Office of the United Nations High Commissioner for Refugees and the Office for the Coordination of Humanitarian Affairs. Participants included representatives of more than 15 United Nations field offices, in addition to representatives of donors, the World Bank and the Brookings Institution, who discussed how to overcome the difficulties that often plague early recovery efforts. In many cases, these difficulties are the result of lack of cooperation between specialized agencies, tensions between humanitarian and development approaches, post-conflict or post-disaster situations and the lack of a specific funding mechanism. The Inter-Agency Standing Committee's working group on early recovery will follow up on the recommendations of the seminar.

Office of the United Nations High Commissioner for Refugees

72. The Representative continued to work closely with the Office of the United Nations High Commissioner for Refugees (UNHCR), including through the presence of a colleague of the Representative in UNHCR offices. As a result, he received considerable support when organizing and conducting his field missions.

Office of the United Nations High Commissioner for Human Rights

73. Pursuant to Human Rights Council resolution 6/32, which requests the Secretary-General to ensure that the mechanism works with the support of the Office of the United Nations High Commissioner for Human Rights (OHCHR), and in accordance with the latter's mandate to provide assistance to special procedures mandate holders, the Representative continued to receive general support for the implementation of his mandate, in particular as regards the organization, substantive preparation and execution of his missions. The Office also assists the Representative in organizing, jointly with the Brookings-Bern Project, the course on internal displacement that he runs each year in San Remo (Italy).

Peacebuilding Commission

74. The Representative welcomes the close cooperation that has been developed with the Peacebuilding Commission, particularly as regards the linkages between the prevention of and search for solutions to displacement, on the one hand, and the search for durable peace, on the other. Accordingly, following his first invitation to address the Commission in May 2007, the Representative was invited to participate in a thematic discussion on internal displacement in the Working Group on Lessons Learned with a view to drawing conclusions at the national and international levels from post-conflict interventions.

75. During this meeting, which took place on 13 March 2008, the Representative pointed out that the return and reintegration of displaced persons are often the solutions favoured by the persons concerned, while emphasizing that the way in which such solutions are implemented has a considerable impact on the sustainability of peace. He also outlined the following fundamental considerations:

- The mere signing of peace agreements is not sufficient to provide durable solutions for displaced persons; the quality of the process leading to durable solutions is a key element necessary for ensuring stability.

- The successful return of displaced persons requires as a minimum that their safety is guaranteed, that their property is restored and that an environment conducive to durable return is created.
- Activities relating to the re-establishment of security, the restitution of property and the creation of an environment conducive to return should as far as possible take place in parallel.
- Peacebuilding efforts should take into account the specific needs of displaced persons and returnees; funding must be rapidly available and flexible so as to avoid the traditional dichotomy between humanitarian activities and development activities.

F. Capacity-building and other activities

76. The fourth course on internal displacement was organized by the Representative from 2 to 7 June 2008. As before, the course was organized jointly with the Brookings-Bern Project and OHCHR. For the first time since its inception in 2005, the course was conducted in French so as to build capacity in French-speaking countries facing situations of displacement. As a result, the course brought together participants from sub-Saharan Africa as well as from Algeria, Haiti and Lebanon. Participants welcomed this initiative and expressed the hope that future courses would also be conducted in French.

77. As in previous years, the Representative, in cooperation with the Brookings-Bern Project on Internal Displacement, continued to carry out and commission research on internal displacement and related issues. Accordingly, a study on displaced persons and peace processes was finalized and published in September 2007.[10] This study highlights the clear linkages between the resolution of problems relating to internal displacement and the search for durable peace. It also makes a number of practical recommendations for the benefit of persons involved in peace processes. In particular, it recommends including displaced persons in peace processes; taking into account their specific needs when drafting peace agreements; and ensuring that they can play an active role in building peace.

78. The Representative also took steps to prepare, in cooperation with the United Nations Mediation Support Unit and the Brookings-Bern Project, a handbook for mediators that highlights the key principles relating to internal displacement which need to be taken into consideration when negotiating and drafting peace agreements.

79. The Brookings-Bern Project also began drafting a set of principles and a handbook for Governments, non-governmental organizations and other humanitarian personnel on when and how to involve displaced persons in decision-making processes, using the techniques of information-sharing, consultation and participation.

80. In addition to press releases relating to his missions and working visits, the Representative issued a joint statement with seven other special procedures mandate holders concerning the situation in Myanmar (28 September 2007) following the demonstrations that took place in the country in September 2007. He also issued a

[10] *Addressing Internal Displacement in Peace Processes, Peace Agreements and Peace-Building*, Brookings-Bern Project on Internal Displacement, September 2007.

joint statement with other special procedures mandate holders concerning Kenya (4 January 2008), which called on those concerned to respect their human rights obligations towards population groups, including displaced persons.

81. The Representative also sent a message to the participants in the symposium on the legal aspects of the return of displaced persons to Abkhazia (Georgia), which was organized in New York on 29 November 2007. In his message, he referred to the three types of durable solution available to displaced persons (return, integration in the area of displacement or resettlement in another part of the country) and the conditions required for a durable return, including security, the restitution of property, the reconstruction of homes and the creation of an environment conducive to return and reintegration. He welcomed the Government's adoption of the national strategy on internal displacement, which recognizes the right to return of displaced persons while at the same time allowing them to live normal lives until such time as return in safety and dignity becomes possible.

IV. Conclusions and recommendations

82. On the occasion of the tenth anniversary of the Guiding Principles, the Representative acknowledges and welcomes the progress made in the past 10 years towards greater recognition of the reality of the phenomenon of displacement, which affects tens of millions of people and has its roots in armed conflicts, natural disasters and other comparable circumstances, and of the need to respond to such situations.

83. The Representative welcomes the progress made by Governments and the international community in strengthening the protection and assistance available to displaced persons, who, as a result of their situation of displacement, have specific needs that are different from those of the non-displaced population. Nevertheless, the Representative wishes to express his concern at:

(a) The ongoing displacements in many countries, often as a result of acts of violence committed by State and non-State actors in violation of international human rights law and international humanitarian law;

(b) The large number of people who find themselves in situations of frequently prolonged displacement and the violation of their rights;

(c) The frequent difficulties in finding durable solutions for displaced persons, leaving even those who could go home or who have been resettled in a safe place in situations of deprivation, marginalization and poverty, in violation of their economic, social and cultural rights, and also of their civil and political rights;

(d) The lack, in certain countries, of the political will or capacity to respond effectively to situations of displacement and provide displaced persons with the protection and assistance they need;

(e) The increasing difficulties that humanitarian personnel face in gaining access to victims of internal displacement owing to the lack of security in some regions or, indeed, attacks against humanitarian personnel, their supplies and their means of transport;

(f) The widespread impunity, in certain contexts, of crimes against humanity and war crimes against displaced persons; and

(g) The endless difficulties that international and local stakeholders face, in certain countries, in coordinating their activities and obtaining the funds they need to be reasonably effective.

84. Against this backdrop, the Representative recalls that the Governments concerned bear primary responsibility for preventing displacement, providing assistance and protection to displaced persons and contributing to the search for durable solutions. He also recalls that non-State actors have an obligation to respect and protect the rights of displaced persons in accordance with international criminal law and international humanitarian law. He calls on all those concerned to be scrupulous in respecting their obligations under international law, as stated in the Guiding Principles.

85. As regards the Guiding Principles and their implementation, the Representative welcomes the fact that these Principles are widely accepted at the global, regional and national levels. In particular, he welcomes the drafting of national legislation and policies in countries affected by internal displacement, the entry into force of the Protocol on Protection and Assistance to Internally Displaced Persons, which was adopted at the International Conference on the Great Lakes Region, and the negotiations currently under way at the African Union on a convention on internal displacement in Africa. Against this backdrop, the Representative wishes to recommend to Governments and regional organizations that they should:

(a) Draft national legislation and policies that are in keeping with the Guiding Principles or revisit existing norms in order to ensure that the needs of displaced persons receive an appropriate response and that institutional responsibilities in this area are specified at all levels;

(b) Develop regional legal instruments based on the Guiding Principles and fully implement those instruments already in force;

(c) Fully implement existing legal and political frameworks and release the resources needed to that end.

86. As many of his missions and working visits have demonstrated, the Representative is particularly concerned that, although persons displaced as a result of conflicts or natural disasters have been able to go home, integrate locally or resettle in other regions, the solutions found might not be durable owing to the insufficient protection and assistance offered to such persons and the lack of efforts to build peace and promote development in the regions concerned. Against this backdrop, the Representative calls on Governments, humanitarian and development personnel, and donors:

(a) To ensure that returns, or any other solution, are the result of an individual decision that has been taken freely, without coercion and on the basis of adequate information;

(b) To ensure that the three elements that are required for solutions to be durable are in place: (i) the assurance of physical safety during and after return or resettlement; (ii) the restitution of property and the (re)construction of adequate housing and necessary infrastructure; and (iii) the creation of an economic and social environment conducive to durable returns, including access, without discrimination, to public services, livelihoods and income-generating activities; the

restitution or replacement of identity documents lost or destroyed during displacement; and the reinstatement of voting rights and other political rights;

(c) To take these issues into account when drafting peace agreements and reconstruction plans following a conflict or natural disaster, in consultation with displaced persons;

(d) To be more resolutely involved in activities relating to early recovery, while at the same time carrying out humanitarian, peacebuilding and development activities, taking into account the specific characteristics of each situation;

(e) To develop more appropriate funding mechanisms to bridge the current gap between emergency phase funding and development phase funding and which is responsible for the systematic underfunding of early recovery activities. Funding mechanisms must be flexible enough to respond to the needs of all communities affected by displacement, not only displaced persons themselves but also the communities that take in such persons, the communities that receive returnees and the communities in which displaced persons are resettled.

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Promotion and protection of human rights: human rights questions, including alternative approaches for improving the effective enjoyment of human rights and fundamental freedoms

Protection of migrants

Report of the Secretary-General

Summary

The present report, submitted in accordance with General Assembly resolution 62/156, contains a summary of communications received from Governments in response to a note verbale sent on 4 July 2008 by the Office of the United Nations High Commissioner for Human Rights on behalf of the Secretary-General requesting information on the implementation of the resolution. The report also contains a summary of communications received from Governments in response to a note verbale sent on 28 June 2007 by the Office of the High Commissioner on behalf of the Secretary-General requesting information on the implementation of resolution 61/165. Owing to the late submission of information by some Member States, their responses were not included in the previous report (A/62/299). The Secretary-General also reports on the status of the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families, the activities of the Special Rapporteur on the human rights of migrants and the Committee on the Protection of the Rights of All Migrant Workers and Members of Their Families.

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I. Introduction

1. In paragraph 19 of its resolution 62/156, the General Assembly requested the Secretary-General to submit a report on the implementation of the resolution at its sixty-third session and to include in that report an analysis of ways and means to promote the human rights of migrants, including through the use of data and statistics on the contribution of migrants to recipient countries.

2. Accordingly, the Office of the United Nations High Commissioner for Human Rights (OHCHR), on 4 July 2008, transmitted a note verbale to Member States on behalf of the Secretary-General requesting information on the implementation of the resolution. The present report contains the responses. In addition, the report summarizes the responses of Governments to a note verbale transmitted by OHCHR on behalf of the Secretary-General on 28 June 2007 in accordance with Assembly resolution 61/165 that were not included in the previous report (A/62/299) owing to their late submission by Member States.

II. Information from Governments with regard to the implementation of General Assembly resolution 61/165

3. As at 12 August 2008, the Governments of the following Member States had replied to the note verbale sent on 28 June 2007: Argentina, Bosnia and Herzegovina, Burkina Faso, Italy, Lebanon, Mauritius and Togo. Summaries of the responses are provided below. The full text of the responses is available upon request at OHCHR.

4. At the time of the submission of the present report, OHCHR had also received responses from Costa Rica, Egypt and Uruguay, but the deadline for the submission of the report to the General Assembly did not permit their inclusion. Those responses will be reflected in the report to be submitted to the Assembly at its sixty-fourth session.

Argentina

5. The Government indicated in March 2007 that it had ratified the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families.

6. The Government also provided information on the new National Migration Act (Law No. 25,871), which has been in effect since January 2004. This law introduces a number of amendments to the previous law, adapting its provisions to those of international law. The new law establishes the migrant population's right to education and health care, regardless of migration status. Furthermore, the new law takes into account the importance of promotion by the State of initiatives to enhance the integration of the migrant population in Argentina. The new law also includes a mechanism which facilitates procedures for migrants from countries members of the Southern Common Market (MERCOSUR) to obtain legal residence in Argentina. Expulsion proceedings require the intervention of the judicial authorities, in cooperation with the National Directorate of Migration. The offence of trafficking in migrants has been defined for the first time in the migration legislation of Argentina.

7. The Government reported that regulations for the implementation of this law were being developed. To that end, consultations are under way with the different sectors of Government involved in this field, and also with civil society organizations. The Ministry of the Interior and the National Directorate of Migration have established a series of provisional measures pending the completion of the regulations for this new law. Such measures include National Directorate of Migration directive No. 2074/04 of 28 January 2004, which suspends expulsions of nationals of adjacent countries. Such persons will be able to regularize their situation once the regulations for the law have been finalized, except where expulsions are ordered because of criminal records. Mention should also be made of National Directorate of Migration directive No. 17,627 of 23 April 2004, which rescinds all detentions prescribed by the National Directorate of Migration in the case of migrants threatened with expulsion orders.

8. The Government also provided information on the meeting of Ministers of the Interior of MERCOSUR and Associated States, which addressed the topic of migration as part of the regional process. Their Declaration of Principles issued on 17 May 2004 recognizes the important contribution of the migrant population to the development of member States, prioritizes respect for their rights, rejects mass expulsions and criminalizes undocumented migration. Another instrument adopted within the MERCOSUR framework was the Agreement on residency for nationals of the States members of MERCOSUR, Bolivia and Chile. In this connection, Argentina has launched its national programme to regularize the status of migrants, entitled the "Patria Grande" programme.

9. The Government also provided information on its National Anti-Discrimination Plan, adopted by national decree No. 1086/2005 of 8 September 2005. The Ministry of Foreign Affairs, the National Institute to Combat Discrimination, the Human Rights Secretariat and the Ministry of Justice were involved in the drafting of the Plan, which includes a specific chapter on migration and concrete proposals for the protection of migrants.

10. Finally, the Government reported on the participation of Argentina in various international forums on migration, particularly the United Nations High-level Dialogue on International Migration and Development and the Ibero-American Meeting on Migration and Development.

Bosnia and Herzegovina

11. The Government reported on the ratification on 13 December 1996 of the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families, which entered into force in 2003. Information was also provided regarding the submission on 27 July 2007 of the initial report on the implementation of provisions of the Convention to the Committee on the Protection of the Rights of All Migrant Workers and Members of Their Families, which monitors the implementation of the Convention by States parties thereto. Information was also provided regarding the preparation of the initial report, the institutions that have contributed and the process of elaboration.

12. The Government indicated that the conclusions and recommendations of the Committee regarding the initial report will be submitted to all responsible authorities with a view to their implementation.

13. The Government reported that the Ministry of Security is the institution in charge of migration issues. The Foreign Affairs Service and the State Border Police are also competent in the protection of migrant workers.

14. Regarding the international framework, the Government indicated that Bosnia and Herzegovina has ratified the United Nations Convention against Transnational Organized Crime, the Protocol against the Smuggling of Migrants by Land, Sea and Air, the Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, and the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families.

15. The Government reported that in April 2005 the Council of Ministers had adopted a new State Action Plan for Combating Trafficking and Illegal Migration in Bosnia and Herzegovina for the period 2005-2007, the Operative Plan of Activities for 2005 and the Action Plan for Combating Trafficking in Children with a view to setting a strategic plan for a three-year period and formulating activities and measures to prevent trafficking and protect and support victims.

16. Information was also provided in relation to the adoption in August 2003 by the Council of Ministers of the decision on the procedures and manner of coordination of activities on the prevention of trafficking and illegal migration in Bosnia and Herzegovina and the establishment of a State Coordinator for Bosnia and Herzegovina (Official Gazette, No. 24/03).

17. The Government supplied information on the Law on the Movement and Stay of Aliens and Asylum and the rule book on the protection of aliens victims of trafficking, which is the framework that stipulates the conditions for granting temporary stay on humanitarian grounds to victims of trafficking. They also define the responsibility of the Ministry of Security in order to ensure special protection and assistance to victims of trafficking. Information was also provided regarding the investigations conducted by the Prosecutor's Office on charges of trafficking.

18. The Government also furnished information on cooperation between the office in Sarajevo of the International Organization for Migration, and the police in the implementation of protection programmes for undocumented migrants and voluntary return. Information about cooperation with civil society organizations was also provided.

19. With regard to measures undertaken by the State to combat racism, racial discrimination, xenophobia and related intolerance, information was provided regarding the Roma Committee, an institution created with a view to promoting tolerance and respect for Roma communities in Bosnia and Herzegovina.

20. The Government reported on bilateral readmission agreements signed with Croatia, Italy, Germany, Serbia, Montenegro, Sweden, Norway, Denmark, Romania, Bulgaria, the former Yugoslav Republic of Macedonia, Slovenia, Austria, Belgium, the Netherlands, Luxembourg, Spain, Slovakia and France.

21. Information was also provided regarding national legislation for the regulation of migration flows. In this sense, the Law on the Movement and Stay of Aliens and Asylum, which entered into force on 14 October 2003, regulates conditions and procedures for aliens to enter and stay in the country. The Government indicated that a new law will enter into force soon, harmonizing the applicable national law with the principles of the Convention and European Union standards. The Law on

the Recruitment of Aliens and Stateless Persons determines the conditions under which work permits may be issued to aliens. The right to an effective legal remedy is stipulated in article 8 of the Law on the Movement and Stay of Aliens and Asylum. Information was also provided with regard to the Law on Monitoring and Control of the State Border Crossing.

22. The Government provided information about the centre for the reception of undocumented migrants and its plan to establish a regional centre for combating cross-border organized crime.

23. The Government also reported on the conclusion of international bilateral agreements establishing efficient cooperation among the police and immigration services in the fields of combating organized crime, trafficking in human beings and undocumented migration.

24. Information was provided on the project to establish a legislative, regulatory and institutional framework in the field of visas, migration and asylum harmonized with European Union law, with the participation of the competent institutions of the country. In the framework of this project, an interdepartmental working group was established in order to prepare a draft of the Law on the Movement and Stay of Aliens and Asylum.

25. In 2006, Bosnia and Herzegovina joined project Ilareia, aimed at improving cooperation at the bilateral and multilateral levels to combat cross-border trafficking. The project was created by the Greek Ministry of Public Order with the support of the European Commission. The Government also indicated its participation in the Hera project, aimed at combating trafficking in human beings in Central and Southern Europe.

26. The Government also provided information about its strategy on integrated border management, adopted by the Council of Ministers in July 2005.

27. Information was provided about the rights contained in the State Criminal Procedure Code, namely, the right for a detained person to be promptly informed of any charges against him or her, the right to take proceedings before a court in case of detention and the right to have the free assistance of an interpreter.

28. Finally, the Government provided information on the Foreign Affairs Service, part of the Ministry of Security, which is competent to deal with issues related to migration.

Burkina Faso

29. The Government of Burkina Faso reported that it had taken a number of legal and institutional measures to protect the rights of migrants and to enhance the integration of those living in Burkina Faso.

30. In the field of national legislation, the Constitution of Burkina Faso strictly prohibits all forms of discrimination based on criteria that could adversely affect the rights of migrants. Similarly, the Individual and Family Code of Burkina Faso grants foreigners the same civil rights as those enjoyed by nationals. Labour laws also prohibit any possible discrimination against foreign workers, and employers that recruit foreign workers are required to provide employment contract visas, in order

to enable the competent authorities to verify that the contracts comply with the rights of migrant workers.

31. The Government reported that there was no discrimination in the justice system that would impede migrants' access to the competent courts in order to ensure the recognition and exercise of their rights.

32. The Government reported on the arrangements in place to promote the integration of migrants in Burkina Faso. In that connection, community days are held each year for foreign communities in Burkina Faso. The various sociocultural events held on these occasions provide an opportunity for the cultural self-expression of foreign communities living in Burkina Faso. They also allow cultural exchanges and friendships between individual communities, on the one hand, and between those communities and the native-born population, on the other hand.

33. Regarding entry into and stay in the territory of Burkina Faso, the Government has established a simplified procedure for obtaining visas which enables foreigners subject to this requirement to obtain their visas at the airport, if there is no Burkina Faso embassy or consulate in their country of origin.

34. The Government indicated that Burkina Faso was engaged in a process of regional integration with the other countries members of the Economic Community of West African States and of the West African Economic and Monetary Union. Burkina Faso therefore applies measures for the free movement of people and goods with respect to nationals of those countries.

35. Finally, the Government indicated that an annual training course had been established for border patrol officers. One of the course's training modules deals with the rights of migrants, with a view to increasing the officers' knowledge in that area.

Italy

36. The Government of Italy reported on the international human rights treaties ratified by Italy, namely, the International Covenant on Economic, Social and Cultural Rights, the International Covenant on Civil and Political Rights, the International Convention on the Elimination of All Forms of Racial Discrimination, the Convention on the Elimination of All Forms of Discrimination against Women, the Convention on the Rights of the Child, the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment and the United Nations Convention against Transnational Organized Crime and its Protocols.

37. Information was also provided regarding the cooperation of the Government with the Office of the United Nations High Commissioner for Refugees (UNHCR), the International Organization for Migration (IOM) and the Italian Red Cross in the implementation of programmes to assist undocumented migrants on the island of Lampedusa. Information was provided about the agreement signed with Médecins sans Frontières aimed at providing additional health-care services to migrants who arrive in Lampedusa.

38. The Government reported on the establishment of a Monitoring Centre on Prostitution and Trafficking in Human Beings within the Interior Ministry.

39. The Government also reported on the establishment of the Office against Racial Discrimination within the Ministry for Rights and Equal Opportunities. Within its framework, a registry of associations working against discrimination has been created. Information was also provided with regard to the establishment in January 2004 of the Committee against Discrimination and Anti-Semitism.

40. The Government furnished information on the Centres for Temporary Stay and Assistance for undocumented migrants, the conditions of the Centres, the length of stay, and the access to the centres guaranteed to representatives of UNHCR, IOM and the International Red Cross. These centres are supervised by the Department for Civil Liberties and Immigration within the Interior Ministry. Information related to the training of staff working in the reception centres was also provided.

41. The Government provided information on the reception services set up at border crossing points to provide information and assistance to aliens who have arrived in Italy seeking to apply for asylum or who wish to stay in Italy for longer than three months.

42. The Government also reported on its participation in the Separated Children in Europe Programme, a joint European initiative for the protection and promotion of the rights of unaccompanied migrant minors.

43. Information was also given regarding the Foreign Minors Committee established within the Department of Social Affairs, which is aimed at supervising the reception of minors, the conditions of residence of unaccompanied minors temporarily admitted into the country and their repatriation and reunification with their families in their countries of origin.

44. The Government supplied information on the agreements on repatriation procedures reached with the countries of origin of the unaccompanied minors and the guidelines for repatriation set out by the Foreign Minors Committee.

45. Lastly, the Government indicated that Italian legislation prohibits the expulsion of aliens under the age of 18, unless the minor requests to be reunited with his or her family.

Lebanon

46. The Government of Lebanon reported that it had not ratified the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families because some provisions were incompatible with its national legislation and therefore suggested that accession to the Convention should be deferred for the time being. However, the Government has undertaken a series of measures to protect the rights of migrants at the national level.

47. The Government reported on the adoption of directive 10/2007, which established a national steering committee on the status of women migrant domestic workers in Lebanon. The steering committee is to follow up on and implement the recommendations of a workshop held in Beirut from 28 to 30 November 2005, to raise awareness of the situation of women migrant domestic workers in Lebanon and to design and implement projects to promote and protect the rights of women migrant domestic workers in conjunction with the competent Government departments, the International Labour Organization, other relevant international and

Arab organizations, civil and national bodies, and committees and the embassies concerned.

48. According to the Government, the steering committee held several meetings at which the possibility of drafting a standard employment contract for female foreign domestic workers was discussed, together with the elaboration of legal provisions to protect such workers. Also, the Government informed us that on 9 July 2003, the Labour Ministry adopted a decision (70/1) regarding the regulation of the work of agencies that recruit female foreign domestic workers in order to guarantee their rights, prevent violations by employers or the owners of the agencies and regulate the relationships among the three parties. Likewise, on 6 July 2004, the Labour Ministry adopted decision 117/1 concerning an insurance policy for foreign workers. The policy covers life insurance, repatriation of mortal remains, compensation for a total or partial disability caused by an accident and the costs of hospitalization in the event of an accident.

49. Finally, the Government provided information about its intention to modify article 7 of the Labour Code, which currently excludes domestic workers, to allow them to be covered.

Mauritius

50. The Government of Mauritius provided information on its procedures to facilitate the recruitment and stay of foreign workers in Mauritius. In that regard, the Passport and Immigration Office is the institution in charge of the work permit applications of migrant workers.

51. With regard to national legislation, the Government indicated that the Constitution guarantees the applicability of fundamental rights and liberties to all migrant workers in Mauritius. Section 6 of the Constitution provides for protection from slavery and forced labour, and section 16 provides for protection from discrimination. The Government reported that the labour laws in force in Mauritius are applicable to all migrant workers. Migrant workers have the right to access social services and the criminal justice system, as well as to form or join a trade union and take part in its activities.

52. The Government reported on the ratification on 24 September 2003 of the Protocol against the Smuggling of Migrants by Land, Sea and Air and the Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children.

53. The Government also indicated that the national framework to combat child trafficking and to protect women from all forms of gender discrimination, abuse and exploitation consists of the Child Protection Act, the Criminal Code (sect. 254 — Sexual Harassment), the Sex Discrimination Act 2002 and the Labour Act 2004.

54. Information was also provided about regular inspections of workplaces carried out by officers of the Special Migrant Workers' Unit of the Ministry of Labour, Industrial Relations and Employment in order to verify that employers are complying with the terms and conditions of employment as provided for in contracts of employment and in the current labour legislation. The inspectors verify whether the migrant workers have received a copy of the contract of employment in a language that they can understand. Moreover, the Ministry of Labour, Industrial

Relations and Employment provides information to the migrant workers on their rights and obligations as stated in their contracts of employment.

55. The Government furnished information on migrant workers' living conditions in Mauritius. In that sense, the Ministry of Health and Quality of Life and the Fire Authority ensure that living conditions comply with the law.

56. According to the Labour Act, in the event that a migrant worker considers that the termination of his/her contract is unjustified, he/she has the possibility of either claiming a severance allowance before the Industrial Court or suing the employer for damages before the Ordinary Court.

57. Information was also provided about the close cooperation between the Government of Mauritius and the International Organization for Migration (IOM) in order to promote the overseas deployment of Mauritian workers. In that regard, local staff has already received training organized by IOM.

58. The Government indicated that in order to ensure that the labour migration occurs in an orderly manner, the Ministry of Labour, Industrial Relations and Employment signs agreements with potential employers prior to the departure of migrant workers to work abroad. Those agreements regulate different issues, such as modalities of transport, wages, repatriation, remittances and terms of contract, possibilities of permanent residence, overtime, lodging and responsibilities of the parties concerned. For this purpose, before starting any recruitment procedure, the embassies of Mauritius abroad compile information about the potential companies, which is provided to the Ministry of Labour, Industrial Relations and Employment.

59. The Government provided information regarding the bilateral labour cooperation agreement signed with the Government of China aimed at ensuring that the recruitment of Chinese workers in Mauritius is carried out according to the legal framework and prescribed procedures. The agreement regulates, inter alia, conditions of work, the relevant aspects of labour migration and the recruitment contracts of Chinese migrant workers through Chinese recruitment agencies.

60. The Government also reported on the Special Migrant Workers Unit, which is a special unit within the Ministry of Labour, Industrial Relations and Employment. Among its responsibilities are carrying out inspections in order to verify that terms and conditions of employment of foreign workers are respected, vetting employment contracts of foreign workers that set a salary below the minimum wage and ensuring that the working conditions are appropriate.

Togo

61. The Government reported that it had no objections to the content or implementation of this resolution, which appeared to be in conformity with existing texts approved by it at important meetings on this subject.

III. Information from Governments with regard to the implementation of General Assembly resolution 62/156

62. As at 12 August 2008, the Governments of the following Member States had replied to the note verbale sent on 4 July 2008: Canada, Cuba, Japan, Slovakia and

Turkey. Summaries of the responses are provided below. The full text of the responses is available upon request at OHCHR.

Canada

63. Canada believes that migration is a positive occurrence for societies, which, when properly managed, contributes to countries' economic and social development. Canada reported that it has one of the highest per capita rates of permanent immigration in the world — 0.8 per cent in recent years — and that it has welcomed 3.5 million immigrants in the past 15 years. In 2006, about 20 per cent of Canada's population was foreign born. The Government reported that in 2006 about 85 per cent of permanent residents who were eligible for Canadian citizenship had acquired that status.

64. On the protection of the human rights of migrants, Canada takes the approach of promoting the universality of human rights for all individuals, including permanent residents or temporary migrant workers. The Canadian Charter of Rights and Freedoms protects the human rights and fundamental freedoms of all persons in Canada. The provisions of the Charter apply to all decisions of Canadian authorities under Canadian law, including with regard to individuals in the country without regular migration status.

65. The Government also provided information about its extensive research programmes to examine immigrant outcomes and thereby enhance the understanding of the contributions made by immigrants. Although Canada does not have a single set of data to measure those contributions, it recognizes the significant benefits that immigration has on its economic, social and cultural development.

Cuba

66. The Government of Cuba reported on the organization of a series of conferences on migration-related issues. Those conferences, entitled "The Nation and Emigration", were held in 1994, 1995 and 2004. At the most recent conference, the following measures were adopted: an office was established under the Ministry for Foreign Affairs to serve the needs of Cuban citizens living abroad; various measures were adopted to maximize the effectiveness of customs transit procedures; and a university scholarship programme was established for the children of Cuban emigrants.

67. The Government also reported on the regulation of migration flows in the country, which it carries out with a view to safeguarding security and providing all the required guarantees of protection, bearing in mind at all times the need to comply with the provisions of international instruments. The measures taken by the Government to regulate migration flows include free medical care for migrants at various points along the country's border, documentation control mechanisms for persons entering or leaving the country and the implementation of the international measures adopted with respect to human-trafficking and drug-trafficking activities.

68. In addition, the Government reported on the implementation of a special plan to provide camp services to assist migrants who reach Cuban shores. The plan

provides for primary health care, food distribution and arrangements for the return of such migrants to their home countries while preserving their dignity and safety.

69. The legal framework governing migration in Cuba consists of the Immigration Act and the Aliens Act (Nos. 1312 and 1313) of 1976. Information was also provided on the ratification by Cuba of the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families.

Japan

70. Japan indicated that the Immigration Control and Refugee Recognition Act is applicable to law officers who are in charge of immigration control. Despite the fact that the use of weapons is permitted by the Act, no weapons have been used by the officers for a long time. Japan also referred to the Coast Guard law and the Police Duties Execution Law, which provide for the use of weapons by State agents. In addition, in June 2005, the Parliament approved the conclusion of the Protocol against the Smuggling of Migrants by Land, Sea and Air supplementing the United Nations Convention against Transnational Organized Crime.

71. Moreover, Japan provided information regarding deportation procedures and the social environment of migrants. Regarding the deportation procedure, Japan indicated that the procedure for the expulsion of vulnerable persons under the Immigration Act allows the Minister of Justice to grant foreign nationals permission for provisional stay until their refugee recognition procedures are completed. It also indicated that victims of trafficking are eligible for specific legal protection and that it is possible to expel non-nationals to countries other than their countries of origin, if accepted by the country in question.

72. Regarding the social environment of migrants, Japan indicated that its public assistance system is based on the Constitution and therefore applies only to Japanese nationals; however certain categories of non-nationals, such as refugees, are eligible to receive public assistance for humanitarian reasons. Non-nationals benefit from the same services as nationals when it comes to the Labour Law, including participation in unions, education, access to the justice system and the national human rights organs.

Slovakia

73. In its reply, the Slovak authorities recall that Slovakia is bound by the Convention Relating to the Status of Refugees and the Protocol Relating to the Status of Refugees. They reported on the transposition of European asylum legislation into the Slovak legal system, which underwent several amendments. Those amendments, which transposed Council Directive 2004/83/EC of 29 April 2004, include minimum standards for the qualification and status of third-country nationals or stateless persons as refugees or as persons who need international protection and introduce the principle of subsidiary protection.

74. The Government reported on the transposition of Council Directive 2005/85/EC of 1 December 2005 on minimum standards on procedures in member States for granting and withdrawing refugee status with the latest amendment to the Asylum Act, which entered into effect on 1 January 2008. This Act introduced new

provisions concerning the grounds for rejecting asylum applications as inadmissible or manifestly unfounded, provided for the representation of parties in asylum proceedings, provided for cooperation with the Office of the United Nations High Commissioner for Refugees and gave a more precise definition of the type of stay applicable to asylum applicants and aliens who are granted subsidiary protection.

75. Information was also provided regarding cooperation between the Government and the International Organization for Migration following several agreements signed in Geneva in 1996 and in 1998 to develop cooperation in the return of unsuccessful asylum-seekers and irregular migrants to their countries of origin.

76. The Government provided information regarding the creation of education programmes concerning the protection of human rights and freedoms of asylum-seekers and asylum applicants in activities linked to crime prevention, the prevention of trafficking in people and gender-based violence in cooperation with different civil society organizations, the Office of the United Nations High Commissioner for Refugees and the International Organization for Migration.

77. The Government also reported on the establishment of the Ministry of Interior as the authority responsible for the European Refugee Fund established by Council Decision 2004/904/EC for the period from 1 January 2005 to 31 December 2010. The purpose of the Fund is to support efforts regarding the receipt of some categories of refugees and displaced persons.

78. The Government furnished information on the implementation in 2006 of five projects linked to reception conditions and asylum procedures, the integration of refugees and displaced persons and the voluntary return of unsuccessful asylum-seekers and irregular migrants. Those projects were financially supported by the European Refugee Fund and the State budget of Slovakia.

79. Lastly, the Government supplied information on the current examination of specifications for the establishment of an Immigration and Naturalization Office with a view to the creation of a European office for the representation of a European asylum system after 2010.

Turkey

80. Turkey indicated that it has actively participated in various migration forums and dialogue mechanisms at the national and international levels. In January 2006, Turkey assumed the Presidency of the Budapest Process, which is an intergovernmental unofficial cooperation and dialogue forum involving 50 governmental and 10 international organizations that aims to prevent irregular migration and to establish sustainable mechanisms in the field of migration management.

81. Turkey reported on its ratification in 2004 of the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families.

82. Turkey furthermore indicated that the Turkish Government and its foreign missions in receiving countries cooperate closely with the host Governments and relevant agencies to promote integration policies and support the efforts of Turkish migrants. In order to meet the need of Turkish migrants to maintain their ties with their mother tongue and culture and carry out their religious practices and to support

their integration efforts, the Government is appointing Turkish teachers and religious officials in the receiving countries.

IV. Activities of the Special Rapporteur on the human rights of migrants

83. The activities of the Special Rapporteur are carried out in accordance with Commission on Human Rights resolution 1999/44, in which the Commission established the mechanism and defined its functions. The Human Rights Council, in its decision 1/102, extended the mandate for one year. On 18 June 2008, the Human Rights Council, at its eighth session, in Geneva, adopted resolution 8/10, extending the mandate of the Special Rapporteur on the human rights of migrants for a period of three years.

84. During the reporting period, the Special Rapporteur, Jorge Bustamante, submitted to the Human Rights Council a report highlighting some of the key challenges with regard to the criminalization of irregular migration and outlining some elements for State responsibility with regard to the protection of irregular migrants, a report on the communications sent to Governments and replies received and a report on his country mission to the United States of America (A/HRC/7/12 and Add.1 and 2).

85. At the invitation of the Government of Mexico, the Special Rapporteur visited the country from 9 to 15 March 2008. Among his concerns, the Special Rapporteur noted reports of impunity for instances of corruption, including bribery and extortion, violence against women and trafficking in children. He was particularly concerned about the alarming reports of child labour and noted that the situation of non-accompanied minor migrants seemed to pose a particular challenge for the Government of Mexico.

86. At the invitation of the Government, the Special Rapporteur visited Guatemala from 24 to 28 March 2008. He was encouraged by the political will of the Government to adopt a more comprehensive programme relating to the question of migration. The Special Rapporteur welcomed the efforts of the Government to facilitate the return to their families of non-accompanied minor migrants deported from Mexico and praised the work accomplished by civil society. However, he noted a lack of coordination among the various State institutions in charge of migration issues. He noted that the current Law on Migration (1998) has many loopholes that allow excessive discretion on behalf of the migration authorities and the police when dealing with migrants.

87. The Special Rapporteur will present the reports on his country missions to Mexico and Guatemala at a future session of the Human Rights Council.

V. Status of the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families

88. The International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families entered into force on 1 July 2003. As at

14 August 2008, 37 States had ratified the Convention: Albania, Algeria, Argentina, Azerbaijan, Belize, Bolivia, Bosnia and Herzegovina, Burkina Faso, Cape Verde, Chile, Colombia, Ecuador, Egypt, El Salvador, Ghana, Guatemala, Guinea, Honduras, Kyrgyzstan, Lesotho, Libyan Arab Jamahiriya, Mali, Mauritania, Mexico, Morocco, Nicaragua, Peru, Philippines, Senegal, Seychelles, Sri Lanka, Syrian Arab Republic, Tajikistan, Timor-Leste, Turkey, Uganda and Uruguay. The entry into force of the Convention assists in securing a protective mechanism for the human rights of migrants, including those in an irregular situation. All Member States that have not yet become a party to the Convention are urged to consider acceding to this instrument promptly.

VI. Committee on the Protection of the Rights of All Migrant Workers and Members of Their Families

89. The Committee, composed of independent experts, monitors the implementation of the Convention by its States parties. Since its first session, held in March 2004, the Committee has considered the initial reports submitted by Mali, Mexico, Egypt, Ecuador, Bolivia and the Syrian Arab Republic.

90. The Committee considered the initial report of Ecuador (CMW/C/ECU/1) at its seventh session, held in November 2007. In its concluding observations (CMW/C/ECU/CO/1) the Committee recommended, inter alia, that Ecuador: fully harmonize its national legislation with the Convention; develop awareness-raising programmes for judicial officials on the importance of the use of human rights treaties, including the Convention; create a database in line with all aspects of the Convention concerning migrant workers in transit or in Ecuador; continue to provide systematic education and training to all officials working in the area of migration or in contact with migrant workers and members of their families; make the provisions of the Convention widely known to both Ecuadorian migrant workers abroad and foreign migrant workers residing or in transit in Ecuador, as well as to communities as a whole, through, inter alia, long-term awareness-raising campaigns; ensure that migrants and members of their families detained for violating provisions relating to migration are deprived of their liberty for as short a time as possible; and continue to take steps to guarantee that they be held separately from convicted persons or persons detained pending trial.

91. The Committee also recommended that the State party eliminate the requirement of an exit permit for nationals wishing to leave Ecuador, in accordance with article 8 of the Convention; consider reviewing the practice and policy of asking for a certificate of criminal record (*pasado judicial*) as an entry requirement applicable exclusively to Colombian migrants, as it may contribute to stigmatization and stereotyping; consider abolishing or amending article 131 of the Migration Law with a view to avoiding the treatment of violations of provisions relating to migration in the criminal justice system.

92. Furthermore, the Committee recommended that the State party continue to work towards the elimination of all kinds of hazardous forms of labour for migrant children and to intensify its efforts to tackle the problem of commercial sexual exploitation of migrant children, especially in the Lago Agrio region, including by providing DINAPEN (the special police for children) with appropriate human and financial resources.

93. In addition, the Committee recommended that migrant children involved in prostitution always be treated as victims and never be criminalized or penalized and that women migrant workers in domestic service have access to mechanisms for bringing complaints against employers. It also recommended that Ecuador ensure that all migrant workers and members of their families, irrespective of their immigration status, enjoy in practice the right to receive any medical care that is urgently required for the preservation of their life or the avoidance of irreparable harm to their health on the basis of equality of treatment with nationals of the State party.

94. The Committee considered the initial report of Bolivia (CMW/C/BOL/1) at its eighth session, held in April 2008. In its concluding observations (CMW/C/BOL/CO/1), the Committee recommended that Bolivia strengthen its efforts to fully incorporate the Convention into domestic law; adopt a migration law fully harmonized with international treaties; create a database in line with all aspects of the Convention, including systematic data as a tool for effective migration policy and for the application of the various provisions of the Convention; intensify training for all officials working in the area of migration, in particular police and border personnel, as well as officials at the local level dealing with migrant workers; continue to work with civil society organizations to disseminate information and promote the Convention; take the steps necessary to ensure access by migrant workers to information about their rights under the Convention; strengthen its efforts to inform migrant workers of the administrative and judicial remedies available to them and address their complaints in the most effective manner; ensure that when migrants or members of their families are detained for the violation of provisions relating to migration they are deprived of their liberty for as short a time as possible; ensure that consular services respond more effectively to the need for protection of Bolivian migrant workers and members of their families; ensure that migrant workers and members of their families are expelled from the territory of the State party only pursuant to a decision taken by the competent authority in conformity with the law, which can be reviewed on appeal; make regularization procedures more accessible, including through the revision of tariffs and the elimination of delays; take steps to facilitate the exercise of voting rights by Bolivian migrant workers residing abroad; create mechanisms to facilitate the identification of vulnerable migrant groups, such as refugees and victims of trafficking, and provide appropriate assistance to the victims; and consider setting up mechanisms to facilitate the voluntary return of migrant workers and members of their families as well as their durable social and cultural reintegration.

95. The Committee considered the initial report of the Syrian Arab Republic (CMW/C/SYR/1) at its eighth session, held in April 2008. In its concluding observations (CMW/C/SYR/CO/1), the Committee recommended that the State party consider measures aimed at ensuring that both Arab and non-Arab migrants are provided with equal access to information concerning their rights under the Convention; consider policies under which the detention of migrant workers in an irregular situation would generally be envisaged only as a measure of last resort and that, in all circumstances, necessary law enforcement measures, including deportation, would be carried out with respect for due process; provide adequate training to all judicial personnel and law enforcement officials on respect for human rights and non-discrimination on ethnic or racial grounds and on the rules of due process in connection with detention and deportation; ensure that private employers

comply with the rule that the passports of migrant workers may not be withheld for any reason; and reconsider its current policy of limiting the amount of remittances allowed to be made by migrant workers in the Syrian Arab Republic. Finally the Committee recommended the adoption of the draft law on trafficking in persons.

96. In addition to the consideration of States parties' reports, the Committee discussed its possible contribution to the Global Forum on Migration and Development, to be held in Manila in October 2008, and addressed a proposal to the organizers of the Forum for consideration as an element of a background paper on human rights, migration and development. The Committee also marked the fifth anniversary of the entry into force of the Convention with a round table on the importance of a human rights-based approach to migration and the relevance of the Convention to today's migration challenges.

VII. Conclusions and recommendations

97. **The Secretary-General welcomes the responses submitted by Member States on the use of data and statistics on the contributions of migrants to recipient countries. He commends in particular those States which have submitted information in the previous reporting periods. The Secretary-General encourages those States which have not done so to provide such information, which will be included in his next report to the General Assembly.**

98. **The Secretary-General takes note of the legislation adopted and the measures and initiatives taken by Member States with a view to promoting and protecting the human rights of migrants.**

99. **The Secretary-General recalls that when exercising their sovereign right to adopt and implement migratory policies, States have an obligation to abide by international human rights law with a view to guaranteeing the protection of migrants and full respect for their human rights.**

100. **The Secretary-General regrets the lack of precise statistics on migration flows and on other migration-related issues. He recalls the importance of this tool for an effective migration policy in order to assess the challenges, the obstacles, the progress and the achievements of the situation of migrants and the implementation of the international and national framework for their protection. The Secretary-General encourages States to pursue their efforts to create a comprehensive database on labour demand in host countries.**

101. **The Secretary-General recalls the importance for Member States of undertaking information campaigns addressed to migrants aimed at clarifying their rights and opportunities and raising awareness about the dangers of undocumented migration.**

102. **The Secretary-General welcomes those States which have adopted national plans of action, paying particular attention to issues related to migration, and encourages them to continue with their implementation. He also recommends that Member States that have not done so to consider adopting national action plans.**

103. **The Secretary-General encourages the Special Rapporteur on the human rights of migrants to continue his work for the protection of the human rights**

and fundamental freedoms of migrants regardless of their migration status, especially those of women and children, through his dialogue with Member States and his programme of country visits.

104. The Secretary-General encourages States to consider ratifying the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families. The Secretary-General further encourages States parties to make declarations under articles 76 and 77 of the Convention recognizing the competence of the Committee on the Protection of the Rights of All Migrant Workers and Members of Their Families to receive and consider inter-State and individual complaints.

105. The Secretary-General also encourages Member States to consider ratifying the United Nations Convention against Transnational Organized Crime and its supplemental Protocol against the Smuggling of Migrants by Land, Sea and Air and the Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, and to fully implement them.

106. The Secretary-General encourages States to pay particular attention to the provisions of the Recommended Principles and Guidelines on Human Rights and Human Trafficking developed by the Office of the United Nations High Commissioner for Human Rights in 2002 (E/2002/68/Add.1).